



**MAYOR AND COUNCIL MEETING
MONDAY, AUGUST 20, 2018
6:00 P.M.
DALTON CITY HALL**

A G E N D A

WORK SESSION - 5:30 P.M. - COUNCIL CHAMBER

1. Review of Agenda

REGULAR MEETING - 6:00 P.M. - COUNCIL CHAMBER

1. Call to Order
2. Pledge of Allegiance
3. Approval of Agenda
4. Public Commentary *(Please state name for the record)*
5. Presentation: DPS STEP Group Projects - Dalton Diversity Days Festival
6. Minutes: Work Session, Executive Session and Regular of August 6, 2018
7. New Business:
 - A. Ordinance - First Reading:
Ordinance 08-13
To Authorize The Inspections Administrator Of Whitfield County To Proceed With The Demolition And Removal Of The Structure Located At 2007 Tampico Way.
 - B. Agreement with Terracon Consultants, Inc., for Hazardous Material Survey at 2007 Tampico Way.
 - C. Weatherproofing Technologies, Inc., (TREMCO) General Services Proposal for Cupola Roof Leak Repairs at 100 S. Hamilton Street.
 - D. Georgia Department of Community Affairs CHIP Homeowner Rehabilitation Assistance Loan Agreement for Wylene Crowe at 605 Jeans Street.
 - E. Setting of 2018 City of Dalton Millage Rate at 2.505 Mills

-Continued-

- F. Certification of Consistency with the Consolidated Plan for the HUD Continuum of Care (CoC) Program Renewal Applications.
 - G. Barge Waggoner Sumner & Cannon, Inc., Additional Services Addendum #7 for the Haig Mill Lake Project.
 - H. Playground Construction Contract with Dominica Recreation Products, Inc., for Haig Mill Lake Park.
 - I. Contract with Rock Creek Outfitters for canoe and kayak rentals at Haig Mill Lake Park.
-
- 8. Supplemental Business:
 - 9. Adjournment

Awesome Girls Bee-ing Kreative



ANNA

BETSY

GLENDIE

KIMBERLY





Dalton Diversity Days Festival

SUPER JELS - STEP Group Project - May 17, 2018

WHO ARE THE SUPER JELS?



SUPER JELS Girls:

Jasmin Gonzalez

Eva Luke

Lesley Pimentel

Shamyra Robinson



SHAW Mentors:

Bev Rowan

Becky Guffey



OUR PROJECT - BACKGROUND

- ▶ The Dalton Chamber of Commerce asked us to design a project that would help get people to come to downtown
- ▶ A new space called Burr Park is being built in downtown that will have a stage and a grassy area in front
- ▶ The SUPER JELS group idea is to have a festival to highlight Dalton's cultural diversity - we call it DALTON DIVERSITY DAYS FESTIVAL

OUR DESIGN PROCESS

- ▶ QUESTION
- ▶ IMAGINE
- ▶ MAKE A PLAN
- ▶ CREATE
- ▶ PRESENT

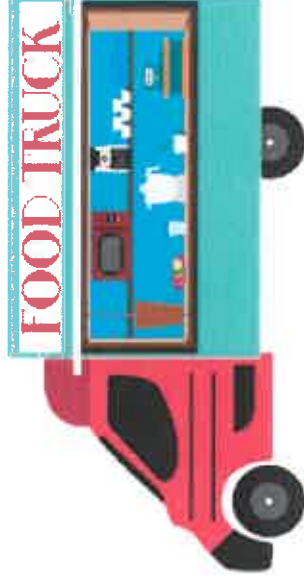
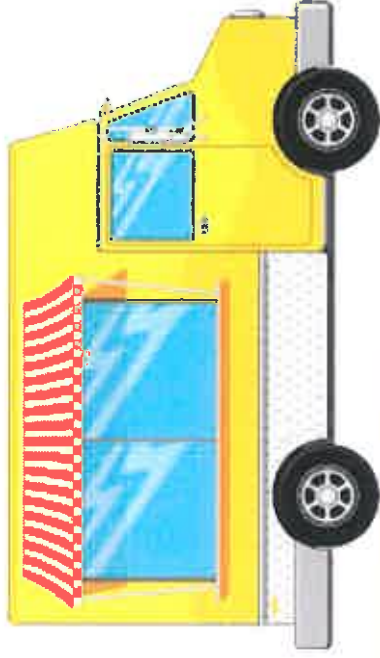


WHAT IS INCLUDED?

- ▶ Food vendors
- ▶ Entertainment
- ▶ Fun activities for families and kids
- ▶ Souvenirs, Lemonade/Drink Stand,
Arts and Crafts



FOOD VENDORS



ENTERTAINMENT



Country Music



FAMILY-FRIENDLY ACTIVITIES - JUMP PARK



FAMILY-FRIENDLY ACTIVITIES - DOG AGILITY COURSE



THANK YOU!



THE CITY OF DALTON
MAYOR AND COUNCIL MINUTES
WORK SESSION
AUGUST 6, 2018

The Mayor and Council held a Work Session this evening at 5:15 p.m. in the Council Chambers of City Hall. Present were Mayor Dennis Mock, Council Members Denise Wood, Annalee Harlan, Tyree Goodlett and Gary Crews, City Administrator Jason Parker and City Attorney James Bisson and several department heads.

The Mayor and Council reviewed the following work session agenda items:

DISCUSSION OF SPEED CUSHIONS - PUBLIC WORKS DEPARTMENT

Public Works Director Benny Dunn stated that the Public Works Committee had developed criteria for the installation of speed cushions on residential streets that is designed for 25 mph speed and will not slow emergency vehicles. Dunn stated his department did a pilot program on Valley Drive due to concerns about the speed of traffic and Valley Drive being a cut-thru street. Dunn stated that (2) speed cushions were placed on Valley Drive in (2) locations and deemed the pilot program a success with a good speed reduction and decrease in the volume of traffic. Dunn stated the speed cushions are \$4500.00 per location. A copy of the criteria was submitted to the Mayor and Council.

CODE ENFORCEMENT QUARTERLY UPDATE

Officer Chris Cochran briefed the Mayor and Council on Code Enforcement Quarterly Update. Cochran presented a PowerPoint presentation which is a part of these minutes. Cochran reviewed the stats for new cases for the quarter and cases closed by compliance. Additionally he reviewed Operation Gateway that was formed to target the main roads entering Dalton, Street Sweeps, Special Projects, and Top 10 Blights. A copy of the presentation is a part of these minutes.

DALTON WHITFIELD PLANNING COMMISSION RECOMMENDATION

Discussion of Unified Zoning Ordinance

Ethan Calhoun came before the Mayor and Council to present proposed amendments to the Unified Zoning Ordinance. Calhoun outlined the creation of Boutique Hotels and the ratio of Urban Dwellings 90/10 split of residential/commercial store frontage.

ADJOURNMENT

There being no further business to come before the Mayor and Council, the meeting was adjourned at 6:00 p.m.

Bernadette Chattam
City Clerk

Dennis Mock, Mayor

Recorded
Approved: _____
Posted: _____

THE CITY OF DALTON
MAYOR AND COUNCIL
EXECUTIVE SESSION MINUTES
AUGUST 6, 2018

An Executive Session of the Mayor and Council was called on the motion Council member Harlan, second Council member Wood at 5:11 to discuss a real estate matters. The vote was unanimous in favor.

Present for the meeting were Mayor Dennis Mock, Alderman Tyree Goodlett, Gary Crews, Annalee Harlan, Denise Wood and City Attorney James Bisson.

The purpose of the meeting was to discuss real estate matters.

No Action Was Proposed Or Taken

ADJOURNMENT

There being no further business to come before the Mayor and Council the meeting was adjourned at 5:31 p.m.

Bernadette Chattam
City Clerk

James Bisson, City Attorney

Approved: _____
NR

THE CITY OF DALTON
MAYOR AND COUNCIL MINUTES
AUGUST 6, 2018

The Mayor and Council held a Meeting this evening at 6:00 p.m. in the Council Chambers of City Hall. Present were Mayor Dennis Mock, Council Members Denise Wood, Annalee Harlan, Tyree Goodlett and Gary Crews, City Administrator Jason Parker and City Attorney James Bisson and several department heads.

APPROVAL OF THE AGENDA

On the motion of Council member Wood, second Council member Harlan, the Mayor and Council approved the agenda with the following addition:

Resolution 18-05

Resolution to Call a Referendum on Sunday Sales of Sales of Distilled Spirits or Alcoholic Beverages for Beverage by the Drink from 11:00 A.M. to 12:30 P.M.

The vote was unanimous in favor.

PLEDGE OF ALLEGIANCE

Mayor Mock led the audience in the Pledge of Allegiance.

PUBLIC COMMENTARY

Christine and Chris Austin asked for the Mayor and Council's assistance with an ongoing problem with bugs at the Housing Authority.

Joanne Harris asked the Mayor and Council for help with ongoing problems with the residents of the Housing Authority that has not been resolved thru normal channels.

City Administrator Jason Parker stated that he will follow up with their concerns.

Lowell Kirkman suggested the Mayor and Council consider a 75/25 split instead of the proposed 90/10 split of residential/commercial store frontage regarding Urban Dwellings.

PROCLAMATION: "CONSTITUTION WEEK" - SEPTEMBER 17-23, 2018

MS. MARTHA MOSES AND MS. DELL BAILEY, D.A.R.

The Mayor and Council proclaimed September 17-23, 2018 as Constitution Week and urged all citizens to study the Constitution, and reflect on the privilege of being an American with all the rights and responsibility which that privilege involves.

MINUTES

The Mayor and Council reviewed Work Session and Regular Meeting Minutes of July 16, 2018 and Special Called Meeting Minutes of July 19, 2018. On the motion of Council member Wood, second Council member Crews, the minutes were approved. The vote was unanimous in favor.

LEASE AGREEMENT WITH THE GEORGIA DEPARTMENT OF ECONOMIC DEVELOPMENT FOR OFFICE SPACE AT THE DALTON FREIGHT DEPOT

The Mayor and Council reviewed the request of Dalton-Whitfield Convention and Visitors Bureau to lease a vacant office space to the Georgia Department of Economic Development for state employee Janet Cochran at the Dalton Freight Depot. On the motion of Council member Wood, second Council member Harlan, the Agreement was approved. The vote was unanimous in favor.

RESOLUTION 18-04

On the motion of Council member Goodlett, second Council member Wood, the Mayor and Council adopted Resolution 18-04 To Establish A Franchise Fee at 5% of gross revenue Applicable To Holders Of Cable And Video Franchises Issued By The State Of Georgia. The vote was unanimous in favor.

FINANCIAL ADVISORY SERVICES AGREEMENT WITH FIRST TRYON SECURITIES, LLC, D/B/A FIRST TRYON ADVISORS FOR TAX ALLOCATION DISTRICTS

CFO Cindy Jackson recommended the Mayor and Council accept the low bid of Tryon Securities, LLC for financial advisory services with regard to funding in the TAD#1. On the motion of Council member Crews, second Council member Harlan, the low bid was accepted. The vote was unanimous in favor.

DALTON-WHITFIELD COUNTY PLANNING COMMISSION RECOMMENDATIONS:

(1) On the motion of Council member Harlan, second Council member Crews, the Mayor and Council approved the request of Joshua Stein to obtain a Special Use Permit for a Water Treatment Facility in the Transitional Commercial (C-4) zone district. The tract of land totals 0.36 acres and is located at 927 S. Hamilton Street (Parcel 12-257-02-022). The vote was unanimous in favor.

(2) City Attorney Jim Bisson stated the request of the Whitfield County Board of Commissioners to update and amend sections of the Dalton-Whitfield-Varnell Unified Zoning Ordinance would have to be in the form of an Ordinance. The Mayor and Council tabled this item.

RECREATION DEPARTMENT

Recreation Director Mike Miller reviewed with the Mayor and Council the following items:

- (1) Change Order #5 with Astra Group, Inc., for paving at Haig Mill Lake Park
- (2) Change Order #6 with Astra Group, Inc., for paving at Haig Mill Lake Park

On the motion of Council member Harlan, second Council member Goodlett, the Mayor and Council approved Change Order #5 and #6. A copy of these orders are a part of these minutes. The vote was unanimous in favor.

RECREATION DEPARTMENT

(3) RFP for Playground Equipment at Haig Mill Lake Park

The Mayor and Council reviewed the bid for Gametime for the Playground equipment at Haig Mill Lake Park. On the motion of Council member Goodlett, second Council member Harlan, the bid of Gametime was accepted. The vote was unanimous in favor.

PUBLIC WORKS DEPARTMENT

(1) General On-Call Engineering, Inspection, and Project Management Services Agreement with Pont Engineering, Inc.

Assistant Public Works Director Andrew Parker reported to the Mayor and Council that the General On-Call Engineering, Inspection, and Project Management Services Agreement with Pont Engineering, Inc. is to have an on-call engineering consultant to assist with various infrastructure and SPLOST projects. On the motion of Council member Wood, second Council member Harlan, the agreement was approved. The vote was unanimous in favor.

The Mayor and Council reviewed the following construction agreements with CSX Transportation and Norfolk Southern Railway Company to complete the repair off the Gordon Street Bridge in accordance with the plans developed by Pont Engineering:

(2) Construction Agreement with CSX Transportation, Inc. for the Gordon Street Bridge Repair Project

(3) Construction Agreement with Norfolk Southern Railway Company for the Gordon Street Bridge Repair Project

On the motion of Council member Goodlett, second Council member Harlan, the agreements were approved. The vote was unanimous in favor.

(4) Contract with Northwest Georgia Paving, Inc. for the 2018 LMIG Milling and Resurfacing Project (PW-2018-LMIG) - Various City Streets

Assistant Public Works Director Andrew Parker explained the Contract with Northwest Georgia Paving, Inc. for the 2018 LMIG Milling and Resurfacing Project (PW-2018-LMIG) - Various City Streets in the amount of \$1,461,476.05 with an additional \$30,000.00 to be paid by Dalton Utilities for milling around utilities. On the motion of Council member Wood, second Council member Harlan, the contract was approved. Parker stated that all funding will be coming from the City's annual GDOT LMIG funding with the remainder being paid for by 2015 SPLOST street resurfacing funds. The vote was unanimous in favor.

PUBLIC SAFETY COMMISSION RECOMMENDATIONS

The Mayor and Council reviewed the following (3) New 2018 Alcohol Beverage Applications:

Business Owner: Gas Express, LLC
d/b/a: Circle K #214
Applicant: Gas Express, LLC
Business Address: 1704 Abutment Rd.
Type: Package Beer, Package Wine
Disposition: New

Business Owner: Dalton Food and Gas, Inc.
d/b/a: The Corner Mart
Applicant: Dalton Food and Gas, Inc.
Business Address: 2201 Chattanooga Rd.
Type: Package Beer
Disposition: New

Business Owner: Crown Mill F&B, LLC
d/b/a: Spinning Room
Applicant: Crown Mill F&B, LLC
Business Address: 825 Chattanooga Ave, Suite 6
Type: Pouring Beer, Pouring Wine
Disposition: New

On the motion of Council member Wood, second Council member Harlan, the applications were approved. The vote was unanimous in favor.

RESOLUTION 18-05 - BRUNCH BILL

The Mayor and Council reviewed Resolution 18-05 to Call a Referendum on Sunday Sales of Sales of Distilled Spirits or Alcoholic Beverages for Beverage by the Drink from 11:00 A.M. to 12:30 P.M. The Georgia Senate passed a 'brunch bill' expanding Sunday morning alcohol sales. Senate Bill 17, will allow on-premise consumption to begin at 11 a.m. on Sundays. Off-premise sales, such as those at supermarkets, would remain illegal until 12:30 p.m. on Sundays.

On the motion of Council member Crews, second Council member Wood, the Mayor and Council approved the Resolution to place the question on the November 2018 election ballot. The vote was unanimous in favor.

Mayor and Council
Minutes
Page 5
August 6, 2018

ADJOURNMENT

There being no further business to come before the Mayor and Council, the meeting was adjourned at 6:31 p.m.

Bernadette Chattam
City Clerk

Dennis Mock, Mayor

Recorded

Approved: _____

Posted: _____



Mayor and Council Agenda Request

Council Meeting Date: 08-20-18

Department: Administration

Subject: Ordinance 18-13 Demolition of 2007 Tampico Way

Cost: N/A Already in Current Year Budget? Yes ☐ No ☐

Provide Funding Source if Not in Budget: _____

Reviewed/Approved By City Attorney? Yes

Please provide a summary of your request, including background to explain the request

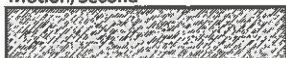
2007 Tampico Way has been declared a nuisance property and public endangerment by the Municipal Court. The City has been authorized to demolish the structure. This ordinance will authorize the Whitfield County Building Inspector to proceed with the demolition and removal of the building.

Requested By: City Administrator Jason Parker

City Administrator Recommendation

City Clerk Notations

Motion/Second



Approved



Date



ORDINANCE 18-13

TO AUTHORIZE THE INSPECTIONS ADMINISTRATOR OF WHITFIELD TO PROCEED WITH THE DEMOLITION AND REMOVAL OF THE STRUCTURE LOCATED AT 2007 TAMPICO WAY.

WHEREAS, the City of Dalton Municipal Court has entered an order in the case of City of Dalton, Georgia v. 2007 Tampico Way, et.al, case No. 05-18-030 finding that the structures located at 2007 Tampico Way were unfit for human habitation and constituted an endangerment to the public health or safety; and

WHEREAS, the Municipal Court further found that the cost to repair said structure exceeds the value of the structures and ordered the structures demolished and removed by the owner by a date certain; and

WHEREAS, the owner has failed to demolish and remove the structures by the provided date; and

WHEREAS, the Mayor and Council have the authority pursuant to O.C.G.A. §41-2-9 to direct the Inspections Administrator of Whitfield County to demolish and remove said structures.

BE IT ORDAINED by the Mayor and Council of the City of Dalton and by the authority of the same, **IT IS HEREBY ORDAINED** as follows:

Section 1.

The Inspections Administrator of Whitfield County is hereby directed to cause the structures located 2007 Tampico Way within the City and being more particularly identified as Tax Map Parcel No. 12-158-03-000 to be demolished and removed as provided by law.

Section 2.

This Ordinance shall be effective upon the posting of this Ordinance in two (2) public places in the City of Dalton for five (5) consecutive days following its enactment by the Mayor and Council, the public health, safety, and welfare requiring it.

Section 3.

All ordinances or parts of ordinances in conflict herewith are hereby repealed.

Section 4.

It is hereby declared to be the intention of the Mayor and Council of the City of Dalton that the section, paragraphs, sentences, clauses and phrases of this Ordinance are severable and if any phrase, clause, sentence, paragraph or section of this Ordinance shall be declared unconstitutional or otherwise invalid by a court of competent jurisdiction such unconstitutionality or invalidity shall not affect any of the remaining phrases, clauses, sentences, paragraphs or sections of this Ordinance.

SO ORDAINED, this ____ day of _____, 2018.

The foregoing Ordinance received its first reading on _____ and a second reading on _____. Upon second reading a motion for passage of the ordinance was made by Alderman _____, second by Alderman _____ and upon the question the vote is ____ ayes, ____ nays and the Ordinance is adopted.

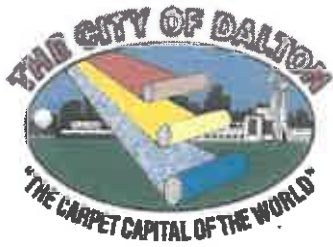
ATTEST:

CITY CLERK

MAYOR

A true copy of the foregoing Ordinance has been published in two public places within the City of Dalton for five (5) consecutive days following passage of the above-referenced Ordinance as of _____.

CITY CLERK, CITY OF DALTON



Mayor and Council Agenda Request

Council Meeting Date: 08/20/2018

Department: Public Works

Subject: Hazardous Materials Survey for Former Econo Lodge Motel at 2007 Tampico Way

Cost: \$5350 + \$20/Add. Samples Already in Current Year Budget? Yes ☐ No ☒

Provide Funding Source if Not in Budget: Budget Amendment

Reviewed/Approved By City Attorney? Yes

Please provide a summary of your request, including background to explain the request

The old Econo Lodge Motel at 2007 Tampico Way has been declared by the Municipal Court to be a nuisance and the City has decided to demolish the structure. City/County Building Inspector, Greg Williams, advises that all asbestos and other hazardous materials must be abated and reported to GA EPD before he can issue a Demolition Permit. This proposal authorizes Terracon Consultant, Inc. to perform a through inspection of the building, taking samples and submitting samples for testing and forwarding all analytical results to the City.

This proposal has been presented to the Finance Committee and has received their approval.

Requested By: City Administrator & Building Inspector

City Administrator Recommendation

City Clerk Notations

Motion/Second

Approved

Date

August 15, 2018



Mr. Benny Dunn
Public Works Director
City of Dalton, GA
PO Box 1205
Dalton, GA 30722-1205

Telephone: 706-278-7077
E-mail: bdunn@cityofdalton-ga.gov

Re: Hazardous Material Survey
Former Econo Lodge Motel
2007 Tampico Way
Dalton, Whitfield County, GA
Terracon Proposal No.: PE2187132

Dear Mr. Dunn:

Terracon Consultants, Inc. (Terracon) is pleased to submit this proposal to conduct a hazardous material survey at the above-referenced location.

A. PROJECT INFORMATION

We understand the site is located at 2007 Tampico Way in Dalton, Georgia. The site consists of one parcel of land identified by Whitfield County Tax Assessors office as 12-158-03-000. The site is owned by Shakti Krupa, Inc. and consists of 4.12 acres of land containing a two-story motel. Terracon understands the City of Dalton is getting prepared to demolish the motel. If this is not accurate, or if you have additional useful information, please inform us as soon as possible.

B. SCOPE OF SERVICES

We understand the purpose of the hazardous material survey is to identify and quantify asbestos-containing materials (ACM), to identify lead-containing paint, and to make visual observations of other hazardous materials present in the commercial structure prior to demolition.

Terracon Consultants, Inc. 51 Lost Mound Dr. Chattanooga, TN 37406
P 423-499-6111 F 423-499-8099 terracon.com

Environmental

Facilities

Geotechnical

Materials

Hazardous Material Survey

Motel – 2007 Tampico Way ■ Dalton, GA

August 15, 2018 ■ Terracon Proposal No. PE2187132



Commitment to Safety IIF

Terracon has a commitment to the safety of all its employees. As such, and in accordance with our Incident and Injury Free® safety culture, Terracon will develop a safety plan to be used by our personnel during field services. Prior to commencement of on-site activities, Terracon will hold a meeting to review health and safety needs for this specific project. At this time, we anticipate two people to perform the fieldwork.

1. Hazardous Material Survey

Asbestos Survey

Terracon will mobilize an Asbestos Hazard Emergency Response Act (AHERA) building inspector to conduct the asbestos survey as required by US Environmental Protection Agency (USEPA) regulation 40 CFR Part 61, National Emissions Standards for Hazardous Air Pollutants (NESHAP). Terracon will conduct a visual assessment of the building to identify materials suspected of containing asbestos (suspect ACM) such as adhesives, caulking, cement board, textures, etc. Suspect materials will be physically assessed for friability and evidence of damage or degradation. Samples of suspect ACM will be collected for laboratory analysis. Bulk sample collection will be conducted in general accordance with the sampling protocols outlined in USEPA 40 CFR 763.86.

Sample collection will result in some isolated damage to building materials; however, attempts will be made to limit such damage to the extent necessary for sample collection. Terracon will not be responsible for repair or touch-up of sample locations. In addition, Terracon will not perform sampling which requires demolition or destructive activities such as knocking holes in walls, dismantling of equipment or removal of protective coverings.

Moody Labs, Inc. (Moody), a laboratory accredited by the National Voluntary Laboratory Accreditation Program (NVLAP), will analyze bulk material samples by visual estimation using Polarized Light Microscopy (PLM). If PLM results merit re-analysis by the more quantitative point counting technique, Terracon will contact the client for authorization if additional costs will be incurred.

In accordance with federal regulations, only those materials containing greater than 1% asbestos will be reported as asbestos-containing. However, materials less than 1% will be identified because the owner will have a duty under the Occupational Safety & Health Administration (OSHA) Hazard Communication Standard (HAZCOM, 29 CFR 1910.1200) to provide information to contractors of cancer causing agents.

Hazardous Material Survey

Motel – 2007 Tampico Way ■ Dalton, GA

August 15, 2018 ■ Terracon Proposal No. PE2187132

**Limited Paint Chip Sampling**

The evaluation for suspect lead-containing paint (LCP) will be limited to client directed areas, namely, the painted exterior CMU walls and exterior window/door frames, the painted interior walls, and painted interior ceilings. The sampling will serve to assist the client in the identification of LCP at the site. Currently, it is anticipated that up to 10 samples may be obtained for analysis of lead. The paint chip samples will be submitted to Environmental Science Corporation (ESC) for lead content analysis by inductively coupled plasma spectrometry (ICP) via Method 6010B. Limited LCP sampling will result in damage to a small area (approximately two square inches) of the painted surface at each sample location. Terracon will not be responsible for re-painting sampled surfaces.

LCP sampling will be limited to readily observable and accessible surfaces. Our proposal does not include sampling material located above a height of 18 feet from grade/floor. Terracon cannot guarantee a building or property to be LCP free as the possibility exists that LCP coated surfaces may be hidden from sight or in inaccessible locations, or the homogeneous construction areas identified may not be truly homogeneous. The survey report will document LCP sampling results and will identify building component surfaces confirmed as LCP. It should be understood that this limited LCP survey is not considered to be comprehensive in nature, and the results are not intended to be used to determine lead hazards, develop abatement plans, or prepare detailed cost estimates for abatement.

Other Hazardous Materials

Terracon will make visual observations of other hazardous materials (mercury-containing thermostats and lights; fluorescents lamps; Polychlorinated biphenyls (PCB) containing ballasts; chlorofluorocarbons (CFC) or hydrochlorofluorocarbons (HCFC)-containing equipment; batteries in emergency lighting and alarms; and radioactive sources in fire and smoke alarms in the building planned for demolition. Terracon will not handle, open, or move any identified hazardous chemicals or wastes and no sampling will be conducted.

Schedule

The hazardous material survey may begin within 5 working days following receipt of the executed Task Order provided that site access can be obtained within 5 working days following execution. Analytical results will be forwarded upon receipt.

The hazardous material report will be provided to the Client within 10 working days of receiving final laboratory results.

Hazardous Material Survey

Motel – 2007 Tampico Way ■ Dalton, GA

August 15, 2018 ■ Terracon Proposal No. PE2187132



In order to complete the project in accordance with this proposal the following items need to be provided by the Client at the time of project authorization:

- The legal right-of-entry to conduct the survey.
- A building management representative during inspections of occupied areas.
- Any restrictions or special access requirements regarding the site shall be made known to Terracon prior to site mobilization.
- Building plans, if available, in AutoCAD format.
- Any known environmental conditions at the site (i.e., hazardous materials or processes, specialized protective equipment requirements, unsound structural members, etc.) shall also be communicated to Terracon prior to site mobilization.

Report

Terracon will prepare a written Hazardous Material Survey Report (Report) describing the sampling methodology and the results of the sampling as well as the visual hazardous materials inventory. The Report will describe the number, type and location of building material samples collected, the analytical results, the estimated quantity and the condition of materials identified as ACM and lead paint. No drawings depicting the location and extent of ACM/lead paint or estimates of ACM/lead paint removal costs will be provided unless specifically requested in advance by the client. Unless otherwise instructed, one pdf copy of the final report will be submitted to the Client.

Reliance

The Report will be prepared for the exclusive use and reliance of Client. Reliance by any other party is prohibited without the written authorization of Client and Terracon.

If the Client is aware of additional parties that will require reliance on the Report, the names, addresses and relationship of these parties should be provided for Terracon approval prior to the time of authorization to proceed. Terracon will grant reliance on the Report to those approved parties upon receipt of a fully executed Reliance Agreement (available upon request). For a period of one year after the report date, the Client and Terracon will consent to reliance on the Report by a third party. During the one-year period, Terracon will grant reliance upon receipt of a fully executed Reliance Agreement and receipt of an additional fee of \$250.00 per relying party.

Reliance on the Report by the Client and all authorized parties will be subject to the terms, conditions and limitations stated in the Agreement for Services (and sections of this proposal incorporated therein), the Reliance Agreement, and the Report.

C. COMPENSATION

Based on the proposed program and scope of work, we estimate the cost for services to be as follows:

Hazardous Material Survey (motel structure)	\$5,350.00
Assumes up to 150 samples for analysis of asbestos and	
Assumes up to 10 samples for analysis of lead paint	
Additional samples (if required)	\$20.00 each

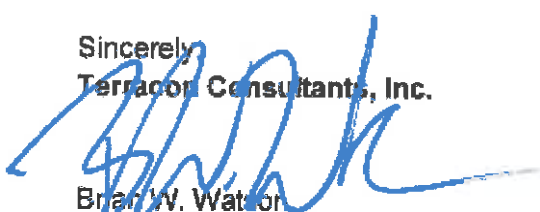
If conditions are encountered at the site which require significant changes in the scope of services or a significant increase in the anticipated number of samples which will increase the cost of the survey, you will be contacted for discussion and approval of such changes before we proceed.

If this proposal meets with your approval, work may be initiated by returning a PDF of the signed Task Order to our Chattanooga office.

The terms, conditions and limitations stated in the Agreement for Services (and sections of this proposal incorporated therein), shall constitute the exclusive terms and conditions and services to be performed for this project. This proposal is valid only if authorized within sixty (60) days from the proposal date.

We appreciate the opportunity to provide this proposal and look forward to working with you on this project. If you have any questions or comments regarding this proposal or require additional services, please contact us.

Sincerely,
Terracon Consultants, Inc.



Brian W. Watson
Senior Project Environmental Scientist
AHERA Accreditation 15537
Expiration Date: January 31, 2019



Matt Johnston
Authorized Project Reviewer

Attachment: Agreement for Services


AGREEMENT FOR SERVICES

This **AGREEMENT** is between City of Dalton GA ("Client") and Terracon Consultants, Inc. ("Consultant") for Services to be provided by Consultant for Client on the Former Econo Lodge project ("Project"), as described in Consultant's Proposal dated 08/15/2018 ("Proposal"), including but not limited to the Project Information section, unless the Project is otherwise described in Exhibit A to this Agreement (which section or Exhibit is incorporated into this Agreement).

1. **Scope of Services.** The scope of Consultant's services is described in the Proposal, including but not limited to the Scope of Services section ("Services"), unless Services are otherwise described in Exhibit B to this Agreement (which section or exhibit is incorporated into this Agreement). Portions of the Services may be subcontracted. Consultant's Services do not include the investigation or detection of, nor do recommendations in Consultant's reports address the presence or prevention of biological pollutants (e.g., mold, fungi, bacteria, viruses, or their byproducts) or occupant safety issues, such as vulnerability to natural disasters, terrorism, or violence. If Services include purchase of software, Client will execute a separate software license agreement. Consultant's findings, opinions, and recommendations are based solely upon data and information obtained by and furnished to Consultant at the time of the Services.
2. **Acceptance/ Termination.** Client agrees that execution of this Agreement is a material element of the consideration Consultant requires to execute the Services, and if Services are initiated by Consultant prior to execution of this Agreement as an accommodation for Client at Client's request, both parties shall consider that commencement of Services constitutes formal acceptance of all terms and conditions of this Agreement. Additional terms and conditions may be added or changed only by written amendment to this Agreement signed by both parties. In the event Client uses a purchase order or other form to administer this Agreement, the use of such form shall be for convenience purposes only and any additional or conflicting terms it contains are stricken. This Agreement shall not be assigned by either party without prior written consent of the other party. Either party may terminate this Agreement or the Services upon written notice to the other. In such case, Consultant shall be paid costs incurred and fees earned to the date of termination plus reasonable costs of closing the Project.
3. **Change Orders.** Client may request changes to the scope of Services by altering or adding to the Services to be performed. If Client so requests, Consultant will return to Client a statement (or supplemental proposal) of the change setting forth an adjustment to the Services and fees for the requested changes. Following Client's review, Client shall provide written acceptance. If Client does not follow these procedures, but instead directs, authorizes, or permits Consultant to perform changed or additional work, the Services are changed accordingly and Consultant will be paid for this work according to the fees stated or its current fee schedule. If project conditions change materially from those observed at the site or described to Consultant at the time of proposal, Consultant is entitled to a change order equitably adjusting its Services and fee.
4. **Compensation and Terms of Payment.** Client shall pay compensation for the Services performed at the fees stated in the Proposal, including but not limited to the Compensation section, unless fees are otherwise stated in Exhibit C to this Agreement (which section or Exhibit is incorporated into this Agreement). If not stated in either, fees will be according to Consultant's current fee schedule. Fee schedules are valid for the calendar year in which they are issued. Fees do not include sales tax. Client will pay applicable sales tax as required by law. Consultant may invoice Client at least monthly and payment is due upon receipt of invoice. Client shall notify Consultant in writing, at the address below, within 15 days of the date of the invoice if Client objects to any portion of the charges on the invoice, and shall promptly pay the undisputed portion. Client shall pay a finance fee of 1.5% per month, but not exceeding the maximum rate allowed by law, for all unpaid amounts 30 days or older. Client agrees to pay all collection-related costs that Consultant incurs, including attorney fees. Consultant may suspend Services for lack of timely payment. It is the responsibility of Client to determine whether federal, state, or local prevailing wage requirements apply and to notify Consultant if prevailing wages apply. If it is later determined that prevailing wages apply, and Consultant was not previously notified by Client, Client agrees to pay the prevailing wage from that point forward, as well as a retroactive payment adjustment to bring previously paid amounts in line with prevailing wages. Client also agrees to defend, indemnify, and hold harmless Consultant from any alleged violations made by any governmental agency regulating prevailing wage activity for failing to pay prevailing wages, including the payment of any fines or penalties.
5. **Third Party Reliance.** This Agreement and the Services provided are for Consultant and Client's sole benefit and exclusive use with no third party beneficiaries intended. Reliance upon the Services and any work product is limited to Client, and is not intended for third parties other than those who have executed Consultant's reliance agreement, subject to the prior approval of Consultant and Client.
6. **LIMITATION OF LIABILITY.** CLIENT AND CONSULTANT HAVE EVALUATED THE RISKS AND REWARDS ASSOCIATED WITH THIS PROJECT, INCLUDING CONSULTANT'S FEE RELATIVE TO THE RISKS ASSUMED, AND AGREE TO ALLOCATE CERTAIN OF THE ASSOCIATED RISKS. TO THE FULLEST EXTENT PERMITTED BY LAW, THE TOTAL AGGREGATE LIABILITY OF CONSULTANT (AND ITS RELATED CORPORATIONS AND EMPLOYEES) TO CLIENT AND THIRD PARTIES GRANTED RELIANCE IS LIMITED TO THE GREATER OF \$50,000 OR CONSULTANT'S FEE, FOR ANY AND ALL INJURIES, DAMAGES, CLAIMS, LOSSES, OR EXPENSES (INCLUDING ATTORNEY AND EXPERT FEES) ARISING OUT OF CONSULTANT'S SERVICES OR THIS AGREEMENT. PRIOR TO ACCEPTANCE OF THIS AGREEMENT AND UPON WRITTEN REQUEST FROM CLIENT, CONSULTANT MAY NEGOTIATE A HIGHER LIMITATION FOR ADDITIONAL CONSIDERATION IN THE FORM OF A SURCHARGE TO BE ADDED TO THE AMOUNT STATED IN THE COMPENSATION SECTION OF THE PROPOSAL. THIS LIMITATION SHALL APPLY REGARDLESS OF AVAILABLE PROFESSIONAL LIABILITY INSURANCE COVERAGE, CAUSE(S), OR THE THEORY OF LIABILITY, INCLUDING NEGLIGENCE, INDEMNITY, OR OTHER RECOVERY. THIS LIMITATION SHALL NOT APPLY TO THE EXTENT THE DAMAGE IS PAID UNDER CONSULTANT'S COMMERCIAL GENERAL LIABILITY POLICY.
7. **Indemnity/Statute of Limitations.** Consultant and Client shall indemnify and hold harmless the other and their respective employees from and against legal liability for claims, losses, damages, and expenses to the extent such claims, losses, damages, or expenses are legally determined to be caused by their negligent acts, errors, or omissions. In the event such claims, losses, damages, or expenses are legally determined to be caused by the joint or concurrent negligence of Consultant and Client, they shall be borne by each party in proportion to its own negligence under comparative fault principles. Neither party shall have a duty to defend the other party, and no duty to defend is hereby created by this indemnity provision and such duty is explicitly waived under this Agreement. Causes of action arising out of Consultant's Services or this Agreement regardless of cause(s) or the theory of liability, including negligence, indemnity or other recovery shall be deemed to have accrued and the applicable statute of limitations shall commence to run not later than the date of Consultant's substantial completion of Services on the project.
8. **Warranty.** Consultant will perform the Services in a manner consistent with that level of care and skill ordinarily exercised by members of the profession currently practicing under similar conditions in the same locale. EXCEPT FOR THE STANDARD OF CARE PREVIOUSLY STATED, CONSULTANT MAKES NO WARRANTIES OR GUARANTEES, EXPRESS OR IMPLIED, RELATING TO CONSULTANT'S SERVICES AND CONSULTANT DISCLAIMS ANY IMPLIED WARRANTIES OR WARRANTIES IMPOSED BY LAW, INCLUDING WARRANTIES OF MERCHANTABILITY AND FITNESS FOR A PARTICULAR PURPOSE.
9. **Insurance.** Consultant represents that it now carries, and will continue to carry: (i) workers' compensation insurance in accordance with the laws of the states having jurisdiction over Consultant's employees who are engaged in the Services, and employer's liability insurance (\$1,000,000); (ii)

commercial general liability insurance (\$1,000,000 occ / \$2,000,000 agg); (iii) automobile liability insurance (\$1,000,000 B.I. and P.D. combined single limit); and (iv) professional liability insurance (\$1,000,000 claim / agg). Certificates of insurance will be provided upon request. Client and Consultant shall waive subrogation against the other party on all general liability and property coverage.

10. **CONSEQUENTIAL DAMAGES.** NEITHER PARTY SHALL BE LIABLE TO THE OTHER FOR LOSS OF PROFITS OR REVENUE; LOSS OF USE OR OPPORTUNITY; LOSS OF GOOD WILL; COST OF SUBSTITUTE FACILITIES, GOODS, OR SERVICES; COST OF CAPITAL; OR FOR ANY SPECIAL, CONSEQUENTIAL, INDIRECT, PUNITIVE, OR EXEMPLARY DAMAGES.
11. **Dispute Resolution.** Client shall not be entitled to assert a Claim against Consultant based on any theory of professional negligence unless and until Client has obtained the written opinion from a registered, independent, and reputable engineer, architect, or geologist that Consultant has violated the standard of care applicable to Consultant's performance of the Services. Client shall provide this opinion to Consultant and the parties shall endeavor to resolve the dispute within 30 days, after which Client may pursue its remedies at law. This Agreement shall be governed by and construed according to Kansas law.
12. **Subsurface Explorations.** Subsurface conditions throughout the site may vary from those depicted on logs of discrete borings, test pits, or other exploratory services. Client understands Consultant's layout of boring and test locations is approximate and that Consultant may deviate a reasonable distance from those locations. Consultant will take reasonable precautions to reduce damage to the site when performing Services; however Client accepts that invasive services such as drilling or sampling may damage or alter the site. Site restoration is not provided unless specifically included in the Services.
13. **Testing and Observations.** Client understands that testing and observation are discrete sampling procedures, and that such procedures indicate conditions only at the depths, locations, and times the procedures were performed. Consultant will provide test results and opinions based on tests and field observations only for the work tested. Client understands that testing and observation are not continuous or exhaustive, and are conducted to reduce - not eliminate - project risk. Client shall cause all tests and inspections of the site, materials, and Services performed by Consultant to be timely and properly scheduled in order for the Services to be performed in accordance with the plans, specifications, contract documents, and Consultant's recommendations. No claims for loss or damage or injury shall be brought against Consultant by Client or any third party unless all tests and inspections have been so performed and Consultant's recommendations have been followed. Unless otherwise stated in the Proposal, Client assumes sole responsibility for determining whether the quantity and the nature of Services ordered by Client is adequate and sufficient for Client's intended purpose. Client is responsible (even if delegated to contractor) for requesting services, and notifying and scheduling Consultant so Consultant can perform these Services. Consultant is not responsible for damages caused by Services not performed due to a failure to request or schedule Consultant's Services. Consultant shall not be responsible for the quality and completeness of Client's contractor's work or their adherence to the project documents, and Consultant's performance of testing and observation services shall not relieve Client's contractor in any way from its responsibility for defects discovered in its work, or create a warranty or guarantee. Consultant will not supervise or direct the work performed by Client's contractor or its subcontractors and is not responsible for their means and methods. The extension of unit prices with quantities to establish a total estimated cost does not guarantee a maximum cost to complete the Services. The quantities, when given, are estimates based on contract documents and schedules made available at the time of the Proposal. Since schedule, performance, production, and charges are directed and/or controlled by others, any quantity extensions must be considered as estimated and not a guarantee of maximum cost.
14. **Sample Disposition, Affected Materials, and Indemnity.** Samples are consumed in testing or disposed of upon completion of the testing procedures (unless stated otherwise in the Services). Client shall furnish or cause to be furnished to Consultant all documents and information known or available to Client that relate to the identity, location, quantity, nature, or characteristic of any hazardous waste, toxic radioactive, or contaminated materials ("Affected Materials") at or near the site, and shall immediately transmit new, updated, or revised information as it becomes available. Client agrees that Consultant is not responsible for the disposition of Affected Materials unless specifically provided in the Services, and that Client is responsible for directing such disposition. In no event shall Consultant be required to sign a hazardous waste manifest or take title to any Affected Materials. Client shall have the obligation to make all spill or release notifications to appropriate governmental agencies. The Client agrees that Consultant neither created nor contributed to the creation or existence of any Affected Materials conditions at the site and Consultant shall not be responsible for any claims, losses, or damages allegedly arising out of Consultant's performance of Services hereunder, or for any claims against Consultant as a generator, disposer, or arranger of Affected Materials under federal, state, or local law or ordinance.
15. **Ownership of Documents.** Work product, such as reports, logs, data, notes, or calculations, prepared by Consultant shall remain Consultant's property. Proprietary concepts, systems, and ideas developed during performance of the Services shall remain the sole property of Consultant. Files shall be maintained in general accordance with Consultant's document retention policies and practices.
16. **Utilities.** Client shall provide the location and/or arrange for the marking of private utilities and subterranean structures. Consultant shall take reasonable precautions to avoid damage or injury to subterranean structures or utilities. Consultant shall not be responsible for damage to subterranean structures or utilities that are not called to Consultant's attention, are not correctly marked including by a utility locate service, or are incorrectly shown on the plans furnished to Consultant.
17. **Site Access and Safety.** Client shall secure all necessary site related approvals, permits, licenses, and consents necessary to commence and complete the Services and will execute any necessary site access agreement. Consultant will be responsible for supervision and site safety measures for its own employees, but shall not be responsible for the supervision or health and safety precautions for any other parties, including Client, Client's contractors, subcontractors, or other parties present at the site.

Consultant: **Terracon Consultants, Inc.**
 By:  Date: **8/15/2018**
 Name/Title: **Brian M. Watson / Senior Project Environmental Scientist**
 Address: **51 Lost Mound Dr, Ste 135
 Chattanooga, TN 37406-1030**
 Phone: **(423) 499-6111** Fax: **(423) 499-8899**
 Email: **Brian.Watson@terracon.com**

Client: **City of Dalton GA**
 By: _____ Date: _____
 Name/Title: **Benny Dunn / Public Works Director**
 Address: **PO Box 1205
 Dalton, GA 30722-1205**
 Phone: **(706) 278-7077** Fax: _____
 Email: **bdunn@cityofdalton-ga.gov**

WTI General Services Proposal

Proposal Prepared for:

CITY OF DALTON
ATTN: GREG BATTIS



WTI General Services Proposal

15 August 2018

CITY OF DALTON

ATTN: Greg Batts

100 HAMILTON STREET

DALTON, TN

Re: Project Name/Address: HS100 BUILDING / CUPOLA Roof Leak Repairs

Customer (the "Customer"): CITY OF DALTON

Dear Mr. Batts,

Thank you for allowing Weatherproofing Technologies, Inc. ("WTI") to provide you with a proposal for work at the above-referenced location.

CONTRACT PRICE:

\$ 4,967.50 ☒ Plus tax ☐ Tax included ☐ Tax exempt ☒ No tax

☐ Labor Only ☐ Time and Materials NTE ☒ Lump Sum

SCOPE OF WORK (THE "WORK"):

- 1.) Perform pre-construction meeting to discuss set up, staging area for equipment and loading of the roof, appropriate work hours, safety and production projections.
- 2.) Set up ladder onto "slate" roof to access; ensure that all required Safety Provisions (OSHA, City, State, Etc.) are strictly followed.
- 3.) Repair area by three-course method around all columns. Apply base layer of SolarGard® Seam Sealer and before it cures, embed PermaFab Reinforcing Fabric into the pliable Sealer. Once dry to the touch, apply top (3rd) layer to the repair area.
- 4.) Ensure all work is performed to Tremco Standards and only Tremco products are used unless pre-approved. Update Tremco Representative of Daily Progress and Work Achieved.
- 5.) Remove all trash, debris, materials, etc. from roof and/or repair area.
- 6.) Safely remove all safety equipment, ladders, tools, etc. from roof and/or work area.
- 7.) Retain before/after photos taken during work progress for the client's future access.



WTI General Services Proposal

Unless all Work hereunder is to be performed within thirty (30) days, WTI shall submit an invoice to the Customer at the end of each calendar month for the amount due for the portion of the Work completed during that month. If all Work is to be performed within thirty (30) days, no invoice shall be submitted until all Work has been completed. Customer shall pay WTI in full within thirty (30) days after receipt of each invoice.

TERMS AND CONDITIONS:

This Proposal is an offer by WTI to provide the Scope of Work set forth above to the Customer on the terms and conditions set forth herein and in WTI's standard terms and conditions (a copy of which may be obtained at <http://www.tremcoroofing.com/files/terms/TandCWTI.pdf>), which are hereby incorporated by reference (together, the "Terms and Conditions"). The Terms and Conditions will govern the Work to the exclusion of any other or different terms, including in any customer purchase order, unless otherwise expressly agreed in writing pursuant to a Master Agreement or similar contract with Customer signed by an authorized representative of WTI. Please confirm your acceptance either by return e-mail to the representative identified below or by having an authorized representative of Customer sign in the space provided below. Upon receipt of acceptance, WTI will process your order and promptly begin the Scope of Work. We appreciate your business and look forward to working with you at your facility.

Sincerely,



WEATHERPROOFING TECHNOLOGIES, INC.

By: Jeffrey D. Patrick | TREMCO, INC.

Title: ROOFING & WEATHERPROOFING SPECIALIST

Phone: (423) 933-6929 | Available 168 Hours / Week

E-mail: jpatrick@tremcoinc.com

AUTHORIZATION AND ACCEPTANCE:

Authorization is hereby given to WTI to proceed with the Work.

Customer: CITY OF DALTON

By:

P.O. number (if required):

Print name:

Title:

Date:



CITY OF DALTON
QUALIFIED VENDOR WRITTEN QUOTES
(Goods or Services with Aggregate Cost of \$2,500 - \$19,999)

City of Dalton

Department:

Date:

August 20, 2018

Description of item:

Roof Leak Repair 100 South Hamilton Street, Dalton

Vendor	Quote Amount	Comments
Weatherproof Technologies, Inc / Tremco	\$4967.50	
Prime Contractors, Inc.	\$5699.98	

Approved by:

Date:

August 20, 2018



Mayor and Council Agenda Request

Council Meeting Date: 08/20/2018

Department: Finance

Subject: CHIP Grant Loan Agreement

Cost: \$42,565 Already in Current Year Budget? Yes ☒ No ☐

Provide Funding Source if Not in Budget: Community HOME Investment Program Grant

Reviewed/Approved By City Attorney? Yes

Please provide a summary of your request, including background to explain the request

This is a housing rehab project through our 2014 CHIP grant for Wylene Crow located at 605 Jeans Street.

Requested By: Cindy Jackson

City Administrator Recommendation

City Clerk Notations

Motion/Second

Approved

Date

Georgia Department of Community Affairs
Community HOME Investment Program
HOMEOWNER REHABILITATION ASSISTANCE LOAN AGREEMENT

This Loan Agreement ("Agreement"), entered into this 7th day of August 2018 by and between Wylene Crowe ("Borrower"), and the City of Dalton ("Program Participant"), located at PO Box 1205, Dalton, GA 30720.

WHEREAS, The State Recipient or Sub-recipient ("Program Participant") administers the CHIP-funded Homeowner Rehabilitation Assistance Program ("DCA Program") on behalf of DCA; and,

WHEREAS, Borrower has requested a CHIP improvement loan in the principal amount of \$42,565 (the "Loan") to finance the rehabilitation of Borrower's home located at 605 Jeans Street, Dalton, GA 30720 (said improvements are hereinafter collectively referred to as the "Improvements"). Said Improvements are located upon land more particularly described in Exhibit A of the Deed to Secure Debt ("Security Deed") and incorporated herein by this reference (the "Land"; the Improvements and the Land are sometimes hereinafter collectively referred to as the "Premises"); and,

WHEREAS, pursuant to the Program Participant's approval of the Loan to Borrower, Borrower and the Program Participant wish to enter into this Agreement in order to set forth the terms and conditions of the Loan;

NOW, THEREFORE, the parties hereto, for and in consideration of their mutual promises, covenants and agreements herein contained, do hereby mutually covenant, agree, consent and warrant as follows:

1. Note; Collateral. Borrower shall sign a real estate note ("Note") in the total principal sum of \$42,565, with a simple interest rate of zero percent (0%) per annum (the "Note"). The entire principal amount of the Note, together with any accrued and unpaid interest thereon, shall be due and payable as indicated on the Note. The Note shall be secured by a Security Deed granting the Program Participant a security interest in Premises. This Agreement, the Note and the Security Deed are sometimes hereinafter collectively referred to as the "Loan Documents". In the event that Borrower needs to borrow additional CHIP funds from DCA, as determined by the Program Participant, to complete the rehabilitation to the Premises as set forth in the Contractor's Proposal, Borrower agrees to execute any and all additional loan documents as are required by the Program Participant.

2. Disbursement of Loan Proceeds. Borrower must make certain that all applicable parts of the Contractor Payment Request (Exhibit A) are completed and that the contractor, the Borrower and the Program Participant have executed the same. A disbursement request must show: (i) the portion of the rehabilitation work completed at that time; (ii) that, except for any amounts designated as

retainage or as claims for work actually in progress or as claims for work for which the particular disbursement request is being requested, all outstanding claims for labor, materials and fixtures have been paid and lien waivers with respect thereto have been obtained from any general contractor; (iii) that there are no liens outstanding against the Premises except the Program Participant's security title, other DCA approved security titles, inchoate liens for property taxes not yet due and inchoate mechanics and materialmen's liens with respect to the amounts described in subparagraph (ii) above; (iv) that Borrower has complied with all of its obligations as of the date thereof; (v) that all rehabilitation prior to the date of the disbursement request has been done substantially in accordance with the Program Participant approved Contractor's Proposal, the CHIP Requirements; (vi) that all funds previously advanced by the Program Participant have been applied directly to the costs for which funds were requested under the applicable disbursement request; (vii) contractor's certification of receipt of any applicable permits, licenses or certificates required under local, state or federal law; and (viii) that all change orders have been approved in writing by DCA to the extent required by DCA.

3. Retainage. The Program Participant can withhold from disbursement up to ten percent (10%) of each amount requested under any one disbursement request until Borrower provides: (i) proof, satisfactory to the Program Participant, that the rehabilitation has been completed in accordance with the Contractor's Proposal, the CHIP Requirements and any DCA requirements; (ii) duplicate original insurance certificates evidencing the types and levels of insurance as set forth below; and (iii) final lien waivers from any general contractor and subcontractors.

4. Lender Check. The Program Participant will disburse the Loan proceeds via a check either made payable to the contractors and materialmen, and others requesting payment from Borrower, or to Borrower alone, or to both Borrower and those persons requesting payment from Borrower.

5. Use of Loan Proceeds. Borrower agrees to use the Loan proceeds solely to rehabilitate the Premises in accordance with the Contractor's Proposal attached hereto as Exhibit B and incorporated herein by this reference ("Contractor's Proposal") and to not use said Loan proceeds for activities, cost or expenses which are not permitted under the CHIP Requirements or under any DCA requirements. Borrower agrees not to use any of the Loan proceeds to finance new construction activities. Further, Borrower agrees to provide the City with an appraisal (or other form acceptable to the Program Participant) of the Premises submitted at time of the application which appraisal would include before and after rehabilitation values of the Premises.

6. Insurance. (a) Program Participant of City of Dalton Title Insurance: Borrower agrees to provide the Program Participant with an original Lender title insurance policy, in an amount, form and substance and written by a title insurance company and through a title agent satisfactory to the Program Participant, and insuring the interest of the Program Participant under the Security Deed, subject only to such liens and encumbrances as are acceptable to the Program Participant. Said insurance policy shall be in an aggregate amount at least equal to the Loan. If a local lender is also providing financing for the rehabilitation of this property, a single Title Insurance Policy insuring both the local lender and DCA is acceptable. (With prior written consent of the Program Participant, Borrower may submit an attorney's certificate of title in lieu of the title insurance policy); (b) All

Risk Hazard Insurance: For so long as the Loan or any portion thereof remains outstanding, Borrower shall have insurance on the Premises for the benefit of Lender, insuring against loss or damage to the Premises by fire, lightning, windstorm, hail, collapse, explosion, malicious mischief, riot, civil commotion, aircraft, vehicles, and smoke and such other hazards as the Program Participant may from time to time require, all in amounts approved by the Program Participant, with loss payable to the Program Participant, without contribution by the Program Participant, pursuant to the New York Standard or other mortgagee claim satisfactory to the Program Participant. The Program Participant reserves the right to require any insurance proceeds from any loss, damage or destruction to the Premises to be used to repay all principal and interest outstanding under the Note;

(c) Flood Insurance: If Borrower's home is located in an area identified by the Federal Emergency Management Agency as having special flood hazards, Borrower agrees to maintain flood insurance insuring the Premises in an amount, form and substance acceptable to the Program Participant.

7. Selection of Contractor from List. Borrower agrees to select a contractor from Program Participant's list of approved contractors to perform the rehabilitation work described on the Contractor's Proposal (Exhibit B). Borrower agrees to execute a written agreement with said contractor and to execute the Addendum to Construction Contract (Exhibit C) which will be provided to Borrower by the Program Participant. Borrower agrees that any and all contractors selected to perform work shall be properly licensed by the State of Georgia to engage in the type of work for which said contractor is hired.

8. Federal Requirements. Borrower shall comply with all regulations governing CHIP.

9. Indemnification. Borrower hereby waives, releases, relinquishes, discharges and agrees to indemnify, protect and save harmless, the Program Participant, its officers, agents and employees of and from any and all claims, demands, liabilities, losses, costs or expenses caused by, growing out of or happening in connection with the performance of this Agreement, or the rehabilitation of the Premises.

10. Program Participant Not Obligated to Disburse. The Program Participant shall not be obligated to disburse Loan proceeds: (a) With respect to hard costs, in excess of the lesser of actual costs incurred by the Borrower or an amount corresponding to the percentage of the completion of the improvements; (b) If an Event of Default as described below shall have occurred and not been cured; or if there exists any event or state of facts which constitutes or, with notice and the passage of time (or both) would constitute an Event of Default under this Agreement or any of the Loan Documents (the Program Participant may regardless of whether a default remains unremedied or uncured, make any advance permitted under the terms of this Agreement without thereby waiving the Program Participant's rights, remedies and powers with respect to any such Event of Default and without thereby becoming liable to make any other or more further advances hereunder); (c) If the Premises shall have been damaged by fire or other casualty; (d) If in the reasonable judgment and opinion of the Program Participant the estimated remaining cost of rehabilitation of the improvements (including any allowable soft costs) exceed the total of: (i) the remaining portion of the Loan, plus (ii) the remaining portion of any other funds committed to the rehabilitation of the Improvements; (e) If condemnation proceedings or similar types or proceedings are commenced

with respect to all or a material portion of the Premises; (f) If in the reasonable judgment and opinion of the Program Participant, Borrower or the Premises shall have failed to satisfy or is in violation of any requirement set forth in the CHIP Requirements; or (g) If the Program Participant has not received the original filed and recorded Security Deed or its lender title insurance policy.

11. Inspections. For so long as the Loan, or any portion thereof remains outstanding, Borrower agrees to permit the Program Participant or its representatives and agents to enter upon the Premises upon reasonable notice and to inspect the Improvements and all materials to be used in the rehabilitation thereof and to cooperate and cause all contractors to cooperate with the Program Participant and its representatives and agents during such inspections; provided, however, that this provision shall not be deemed to impose upon the Program Participant any obligation to undertake such inspections or any liability for the failure to detect or the failure to act with respect to any defect which was or might have been disclosed by such inspections.

12. Application. Borrower warrants that the representations, statements and other matters contained in the CHIP-funded Homeowner Rehabilitation Assistance Program Application and all its attachments were true and complete in all material respects as of the date of filing. Borrower is aware of no event which would require any amendment to the Application (other than an amendment which has been filed with and approved by Lender) which would make such representations, statements and other matters true and complete in all material respects and not misleading in any material respect. Borrower is aware of no event or other fact which should have been, and has not been, reported in the Application as material information.

13. Conflicts of Interest. Borrower warrants and represents that no member, employee, officer, agent, consultant, or official of Recipient, nor any member of their immediate family has any interest, direct or indirect, in this Agreement or any proceeds or benefits arising therefrom.

14. Debarment and Suspension. Borrower warrants and represents that it is not presently debarred, suspended, proposed for debarment, suspension, declared ineligible, or voluntarily excluded from participation in this transaction or the DCA Program by any federal department or agency.

15. Survival of Representations and Warranties. All representations and warranties made under this Agreement shall be deemed to be made, and shall be true and correct, at and as of the date hereof. All representations and warranties made under this Agreement shall survive the execution hereof.

16. Event of Default. Occurrence of one or more of the following events will at the sole discretion of the Program Participant constitute an event of default ("Event of Default") under this Agreement: (a) Borrower shall use CHIP Funds for any purpose other than as authorized in this Agreement, or the CHIP requirements; or (b) Borrower shall default in the payment, when due, of any principal of or interest on the Note; or (c) Any warranty or representation in this Agreement shall be found to be false or materially misleading; or (d) Borrower shall default in the performance of any covenant, condition or agreement of this Agreement and such non-monetary default shall not

be cured within thirty (30) days from the City's written notice; or (e) Borrower shall be adjudged bankrupt or insolvent, or a petition or proceeding for bankruptcy shall be filed against it and it shall admit the material allegations thereof, or an order, judgment or decree shall be entered approving such petition and such order, judgment or decree shall not be vacated or stayed within thirty (30) days of its entry or a receiver or trustee shall be appointed for Borrower or the Premises or any part thereof and remain in possession thereof for thirty (30) days; or (f) any Event of Default shall occur under the Security Deed or the Loan Documents; or (g) Borrower shall fail to occupy the Premises as Borrower's principal residence; or (h) Borrower shall default in the performance of any covenant contained in any loan, note, security deed or agreement relating to the Premises which Borrower may have with any other lender; or (i) Borrower shall fail to provide: (i) proof, satisfactory to the Program Participant, that the rehabilitation has been completed in accordance with the Contractor's Proposal, the CHIP Requirements and any DCA requirements; (ii) duplicate original insurance certificates evidencing the types and levels of insurance as set forth herein; and (iii) final lien waivers from any general contractor and subcontractors.

17. Remedies. Upon occurrence of an Event of Default, the Program Participant may, in its sole discretion: (i) immediately suspend or terminate this Agreement and deny Borrower any future disbursements under this Agreement; (ii) declare the Note immediately due and payable and institute proceedings for its collection, including but not limited to all costs of collection, securing or attempting to collect or secure this Note, including reasonable attorneys' fees, whether the same is collected or secured by suit or otherwise, providing the collection of such costs and fees is permitted by applicable law; (iii) exercise any and all rights under the Security Deed, including but not limited to foreclosure; and (iv) take any and all action in law, equity or otherwise which it deems necessary or advisable. The rights and remedies of Lender shall be cumulative. Any election of any right or remedy will not be deemed to be an election of that right or remedy to the exclusion of any other right or remedy. The rights and remedies available to the Program Participant in the event of a suspension or termination of this Agreement will survive such suspension or termination.

18. Calculation of Cure Period. The time period to cure a default shall be calculated from: (i) the postmark date stamped on the written notice of default, if sent by registered or certified mail; (ii) the date of actual receipt, if delivered personally; or (iii) the date of actual receipt or refusal of delivery, if sent by registered courier or delivery service.

19. Written Notices; Date Received. All notices and other communications required or permitted under this Agreement shall be in writing and, if mailed by prepaid first-class mail or certified mail, return receipt requested, at any time other than during a general discontinuance of postal service due to strike, lockout or otherwise, shall be deemed to have been received on the earlier of the date shown on the receipt or three (3) Business Days after the postmarked date thereof and, if telecopied, shall be followed forthwith by letter and shall be deemed to have been received on the next Business Day following dispatch and acknowledgment of receipt by the recipient's telecopy machine. In addition, notices hereunder may be delivered by hand or overnight courier, in which event the notice shall be deemed effective when delivered. All notices and other communications under this Agreement shall be given to the parties at the addresses indicated on the first page.

20. Change of Address. Any party hereto may change the address to which notices shall be directed under this Agreement by giving ten (10) Business Days' written notice of such change to the other parties.
21. Entire Agreement. This Agreement constitutes the entire agreement among and between the parties. There are no representations, oral or otherwise, other than those expressly set forth herein. No modification of this Agreement shall be binding unless both parties have executed a written amendment to this Agreement.
22. Successors and Assigns. This Agreement will inure to the benefit of and be binding upon the respective parties and their successors and assigns.
23. Invalid Provisions. In the event that any part or portion of this Agreement is, for any reason, set aside or found to be unlawful, those lawful parts or portions remaining shall continue in full force and effect.
24. Governing Law/Judicial Interpretation. Except to the extent superseded by federal law, the parties expressly agree that the laws of the State of Georgia shall control in all instances involving the interpretation and validity of the within Agreement. Should any provision of this Agreement require judicial interpretation, the parties agree that the court interpreting or construing the same shall not apply a presumption that the terms hereof shall be more strictly construed against one party by reason of the rule of construction that a document is to be construed more strictly against the party who itself or through its agent prepared the same. The parties hereby agree that the agents of each have participated in the preparation hereof.
25. Further Actions. Each party agrees to perform any and all further acts and to execute and deliver any and all additional documents which may be reasonably necessary to carry out the terms of this Agreement.
26. Assignment. No right, benefit or advantage inuring to Borrower under this Agreement and no obligation imposed on the Borrower hereunder may be assigned without the prior written approval of Lender.
27. Effective Date. This Agreement shall be effective on the date executed by the Program Participant as indicated below.
28. No Agency or Partnership or Joint Venture. The Program Participant is not an agent or representative of Borrower and Borrower is not an agent or representative of the Program Participant. Borrower shall be solely responsible for procuring and providing all personnel, facilities and services necessary to perform any and all obligations under this Agreement, the CHIP requirements. Nothing herein nor the acts of the parties hereto shall be construed to create a partnership or joint venture between the Borrower and the Program Participant.

29. No Waiver. No failure or delay on the part of the Program Participant to exercise any right, power or privilege hereunder shall operate as a waiver of any such right, power or privilege hereunder. No failure or delay on the part of the Program Participant to exercise any single or partial exercise of any right, power or privilege hereunder shall preclude any other or further exercise of any right, power or privilege hereunder.

30. Time of the Essence. Time is of the essence of this Agreement.

IN WITNESS WHEREOF, the parties have executed this instrument as of the day and year indicated below.

Executed this 7th day of
August 2018 by:

Executed this 7th day of
August 2018 by:

Wylene Crowe

Wylene Crowe

Program Participant

Signature of Grantee

By: Dennis Mock

Title: Mayor

Attest: Rhonda Gilbert
Name: Rhonda Gilbert
Title: Grant Administrator

Attest: Bill Zedel
Name: Bill Zedel
Title: Rehab Advisor



Mayor and Council Agenda Request

Council Meeting Date: 08/20/2018

Department: Finance

Subject: 2018 Millage Rate

Cost: NA Already in Current Year Budget? Yes X No

Provide Funding Source if Not in Budget: Revenue Item

Reviewed/Approved By City Attorney? NA

Please provide a summary of your request, including background to explain the request

Purpose is to set 2018 millage rate at the rollback rate of 2.505 mills. Advertised in daily citizen news 8/10/18 and placed on website.

Requested By:

Cindy Jackson

City Administrator Recommendation

City Clerk Notations

Motion/Second

Approved

Date

NOTICE OF CURRENT TAX DIGEST AND 5 YEAR HISTORY OF LEVY

The City of Dalton Mayor and Council do hereby announce that the millage rate will be set at a meeting to be held at Dalton City Hall, 300 W. Waugh Street, Dalton, Georgia 30720, on Monday, August 20, 2018 at 6:00 p.m. and pursuant to the requirements of O.C.G.A. 48-5-32, do hereby publish the following presentation of the current year's tax digest and levy along with the history of the tax digest and levy for the past five years.

	<u>2013</u>	<u>2014</u>	<u>2015</u>	<u>2016</u>	<u>2017</u>	<u>2018</u>
Real & Personal	3,442,871,158	3,573,834,223	3,631,310,248	3,576,769,947	3,725,506,421	3,832,017,264
Motor Vehicles	157,709,325	152,449,725	102,988,225	79,317,550	60,723,375	49,378,400
Mobile Homes	246,748	270,138	309,608	337,158	329,980	363,023
Public Utilities	20,583,698	26,323,418	26,322,153	25,412,165	23,732,060	23,110,695
Timber-100%	0	0	0	0	0	0
Heavy Duty Equipment	0	170,560	15,255	0	0	0
Gross Digest	3,621,410,929	3,755,048,054	3,760,945,489	3,681,836,820	3,810,291,836	3,904,869,382
Less M&O Exempt	297,794,168	318,453,929	325,665,644	310,145,903	316,394,309	324,560,279
Net M&O Digest	3,323,616,761	3,434,594,135	3,435,279,845	3,371,690,917	3,493,897,527	3,580,309,103
Gross M&O Millage	3.437	3.975	4.118	4.122	3.930	3.968
Less Rollbacks	.821	1.438	1.607	1.616	1.424	1.463
Net M&O Millage	2.616	2.537	2.511	2.506	2.506	2.505
Net Taxes Levied	\$ 8,694,581	\$ 8,713,565	\$ 8,625,988	\$ 8,449,457	\$ 8,755,707	\$ 8,968,674
Net Tax \$ Increase (Decrease)	\$ (384,757)	\$ 18,984	\$ (87,578)	\$ (176,530)	\$ 306,250	\$ 212,967
Net Tax % Increase (Decrease)	(4.24)%	0.218%	(1.01)%	(2.05)%	3.624%	2.432%

Source: Whitfield County Board of Tax Assessors

Digest amounts are stated at 100% of assessed valuation. The net levy represents the amount billed, not amount collected. Exemptions include all City exemptions, as well as the elderly homestead exemptions as passed by City voters in 2004, HB1782 and HB1783, and Freesport Exemption. The 2018 totals are subject to revision due to property tax appeals. O.C.G.A. 45-5-311 requires temporary tax bills based on 85% of this years assessed valuation or the taxpayer's return value whichever is greater. There are 158 appeals with a disputed value of \$82,240,068.

PT32.1 - Computation of MILLAGE RATE ROLLBACK AND PERCENTAGE INCREASE IN PROPERTY TAXES - 2018

COUNTY Whitfield TAXING JURISDICTION City of Dalton

INFORMATION FOR THE SHADED PORTIONS OF THIS SECTION MUST BE ENTERED

This information will be the actual values and millage rates certified to the Department of Revenue for the applicable tax years.

DESCRIPTION	2017 DIGEST	REASSESSMENT OF EXISTING REAL PROP	OTHER CHANGES TO TAXABLE DIGEST	2018 DIGEST
REAL	2,222,062,561	2,133,352	-9,606,417	2,214,589,496
PERSONAL	1,527,175,920		113,382,543	1,640,538,463
MOTOR VEHICLES	60,723,375		-11,344,975	49,378,400
MOBILE HOMES	329,980		33,043	363,023
TIMBER -100%			0	
HEAVY DUTY EQUIP			0	

GROSS DIGEST	3,810,291,836	2,133,352	92,444,194	3,904,869,382
EXEMPTIONS	316,394,309	0	8,165,970	324,560,279
NET DIGEST	3,493,897,527	2,133,352	84,278,224	3,580,309,103
FLPA Reimbursement Value			0	
Adjusted NET DIGEST	3,493,897,527	2,133,352	84,278,224	3,580,309,103
	(PYD)	(RVA)	(NAG)	(CYD)
2017 MILLAGE RATE >>>	2.506	2018 PROPOSED MILLAGE RATE >>>		2.505

THIS SECTION WILL CALCULATE AUTOMATICALLY UPON ENTRY OF INFORMATION ABOVE

DESCRIPTION	ABBREVIATION	AMOUNT	FORMULA
2017 Net Digest	PYD	3,493,897,527	
Net Value Added-Reassessment of Existing Real Property	RVA	2,133,352	
Other Net Changes to Taxable Digest	NAG	84,278,224	
2018 Net Digest	CYD	3,580,309,103	(PYD+RVA+NAG)
2017 Millage Rate	PYM	2.506	
Millage Equivalent of Reassessed Value Added	ME	0.001	(RVA/CYD) * PYM
Rollback Millage Rate for 2018	RR	2.505	PYM - ME

COMPUTATION OF PERCENTAGE INCREASE IN PROPERTY TAXES

If the 2018 Proposed Millage Rate for this Taxing Jurisdiction exceeds Rollback Millage Rate computed above, this section will automatically calculate the amount of increase in property taxes that is part of the notice required in O.C.G.A. Section 48-5-32.1(c) (2)	Rollback Millage Rate	2.505
	2018 Millage Rate	2.505
	Percentage Increase	0.00%

CERTIFICATIONS

I hereby certify that the amount indicated above is an accurate accounting of the total net assessed value added by the reassessment of existing real property for the tax year for which this rollback millage rate is being computed.

Chairman, Board of Tax Assessors Date

I hereby certify that the values shown above are an accurate representation of the digest values and exemption amounts for the applicable tax years.

Tax Collector or Tax Commissioner Date

I hereby certify that the above is a true and correct computation of the rollback millage rate in accordance with O.C.G.A. Section 48-5-32.1 for the taxing jurisdiction for tax year 2018 and that the final millage rate set by the authority of this taxing jurisdiction for tax year 2018 is _____

CHECK THE APPROPRIATE PARAGRAPH BELOW THAT APPLIES TO THIS TAXING JURISDICTION

____ If the final millage rate set by the authority of the taxing jurisdiction for tax year 2018 exceeds the rollback rate, I further certify that the required advertisements, notices, and public hearings have been conducted in accordance with O.C.G.A. Sections 48-5-32 and 48-5-32.1 as evidenced by the attached copies of the published five year history and current digest advertisement, the "Notice of Intent to Increase Taxes" showing the times and places when and where the required public hearings were held, and a copy of the press release provided to the local media.

____ If the final millage rate set by the authority of the taxing jurisdiction for tax year 2018 does not exceed the rollback rate, I further certify that the required five year history and current digest advertisement have been published in accordance with O.C.G.A. Section 48-5-32 as evidenced by the attached copy of such advertised report.

Signature of Responsible Party Title Date

Date _____

Certification of Consistency with the Consolidated Plan

U.S. Department of Housing
and Urban Development

I certify that the proposed activities/projects in the application are consistent with the jurisdiction's current, approved Consolidated Plan.
(Type or clearly print the following information:)

Applicant Name: Multiple Applicants (see attachment)

Project Name: Multiple Projects (see attachment)

Location of the Project: City of Dalton, Georgia

Name of the Federal
Program to which the
applicant is applying: HUD Continuum of Care (CoC) Program - Renewal Applications

Name of
Certifying Jurisdiction: City of Dalton, Georgia

Certifying Official
of the Jurisdiction
Name:

Title:

Signature:

Date:

Certification of Consistency with the Consolidated Plan (attachment)

<u>Applicant Name</u>	<u>Project Name</u>	<u>Location of the Project</u>	<u>Name of Federal Program to which applicant is applying</u>
Action Ministries, Inc.	Balance of State Rapid Re-housing	City of Dalton	HUD Continuum of Care (CoC) Program - Renewal Application
Action Ministries, Inc.	Mountain Initiative Rapid Re-housing	City of Dalton	HUD Continuum of Care (CoC) Program - Renewal Application
Dalton-Whitfield Community Development Corporation	PH SPC Case Manager	City of Dalton	HUD Continuum of Care (CoC) Program - Renewal Application
Georgia Housing and Finance Authority (GHFA)	Dalton Whitfield CDC S+CR	City of Dalton	HUD Continuum of Care (CoC) Program - Renewal Application
Georgia Housing and Finance Authority (GHFA)	Dalton Whitfield CDC S+CR2	City of Dalton	HUD Continuum of Care (CoC) Program - Renewal Application
Georgia Housing and Finance Authority (GHFA)	Dalton Whitfield CDC S+CR3	City of Dalton	HUD Continuum of Care (CoC) Program - Renewal Application

Date _____

BARGE WAGGONER SUMNER & CANNON, INC.

ADDITIONAL SERVICES ADDENDUM NUMBER 07

This addendum to the Professional Services Agreement dated September 14, 2015 between the City of Dalton, Georgia (Client) and Barge Waggoner Sumner & Cannon, Inc. (BWSC) is for additional services described as follows:

Project: Haig Mill Lake Project

Project Description: Reallocation of Funds

I. PROFESSIONAL SERVICES:

BWSC's original contract envisioned a nine (9) month construction period. Addendum # 3 extended these services by five (5) months. The project has currently reached the fourteen (14) month construction period as approved and is projected to extend another four (4) to six (6) weeks, weather dependent. Addendum # 3 also provided for an increase in the architect's fee to cover the cost of enhanced construction administration if the Lodge was constructed. Since the lodge was not constructed, this will not be billed. BWSC proposes to reallocate the \$9,488 currently earmarked in Phase 9200 of the project to a new phase, Add #7 BWSC CA Extension II.

COMPENSATION: The compensation to be paid to BWSC for providing the requested additional services shall be:

Eliminate Phase 9200, Add. #3 Architects Lodge CA	- \$9488.00
Add new phase Add #7 BWSC CA Extension II	<u>\$9488.00</u>
Net Change to Existing Contract	\$0.00

III. **TIME:** Start 8/1/2018 to Project closeout or 10/15/2018 Whichever occurs first)

IV. **TERMS AND CONDITIONS:** Services performed under this addendum are subject to the same terms and conditions described in Items III through XII of the Professional Services Agreement dated September 14, 2015

City of Dalton, GA		Barge Waggoner Sumner & Cannon, Inc.	
By:		By:	
Printed Name:	Mike Miller	Printed Name:	Doye B. Cox
Title:	Dalton Parks & Recreation Director	Title:	Vice President
Address:	904 Civic Drive Dalton, GA 30720	Address:	1110 Market Street, Suite 200 Chattanooga, TN 37402



Mayor and Council Agenda Request

Council Meeting Date: 08/20/2018

Department: Parks and Recreation

Subject: Playground Construction Contract

Cost: \$187,952.13 Already in Current Year Budget? Yes ☒ No ☐

Provide Funding Source if Not in Budget: _____

Reviewed/Approved By City Attorney? yes

Please provide a summary of your request, including background to explain the request

The attached construction contract for the playground at Haig Mill Lake to be installed by Dominica Recreation Products, Inc.

Requested By: Recreation Commission and Mike Miller Director

City Administrator Recommendation

City Clerk Notations

Motion/Second



Approved



Date



PLAYGROUND CONSTRUCTION CONTRACT

This Agreement is made by and between the **City of Dalton, Georgia** (hereinafter referred to as the “Owner”) and **Dominica Recreation Products, Inc.**, a Florida corporation (hereinafter referred to as the “Contractor”), for the construction of a playground at Haig Mill Lake Park per the schematic diagram known as Rainforest Revised dated 6/21/18, a copy of which is attached hereto as Exhibit “A” and made a part hereof, (hereinafter referred to as the “Project”). The Owner and the Contractor hereby agree as follows:

ARTICLE I

THE CONTRACT AND THE CONTRACT DOCUMENTS

1.1 The Contract

1.1.1 The contract between the Owner and the Contractor, of which this Agreement is a part, consists of the Contract Documents (the “Contract”). The Contract shall be effective on the date this Agreement is executed by the last party to execute it.

1.2 The Contract Documents

1.2.1 The Contract Documents consist of the following which are incorporated herein by reference:

- This Agreement including Exhibit “A”;
- Any supplemental conditions attached hereto;
- Any Change Order - as defined in Paragraph 10.2 of this Agreement;
- Contractor’s Quote #83106 for the Project.
- The Invitation to Bid, the Instructions to Bidders, and the contractors bid form; and

Documents not enumerated in this Paragraph 1.2 are not Contract Documents and do not form part of this Contract.

1.3 Entire Agreement

1.3.1 This Contract constitutes the entire and exclusive agreement between the Owner and the Contractor with reference to the Project. Specifically, but without limitation, this Contract supersedes any bid documents and all prior written or oral communications, representations and negotiations, if any, between the Owner and Contractor.

1.4 No Privity with Others

1.4.1 Nothing contained in this Contract shall create, or be interpreted to create, privity or any other contractual agreement between the Owner and any person or entity other than the Contractor.

1.5 Intent and Interpretation

1.5.1 The intent of this Contract is to require complete, correct and timely execution of the Work (as hereinafter defined). Any Work that may be required, implied, or inferred by the Contract Documents, or any one or more of them, as necessary to produce the intended result shall be provided by the Contractor for the Contract Price.

1.5.2 This Contract is intended to be an integral whole and shall be interpreted as internally consistent. What is required by any one Contract Document shall be considered as required by the Contract.

1.5.3 The specification herein of any act, failure, refusal, omission, event, occurrence or condition as constituting a material breach of this Contract shall not imply that any other non-specified act, failure, refusal, omission, event, occurrence or condition shall be deemed not to constitute a material breach of this Contract.

1.5.4 The Contractor herein acknowledges and represents that prior to the submission of its bid, and prior to its execution of this Contract, it visited and carefully examined the Project site and any and all structures located thereon, and it thoroughly correlated the results of such visit and examination with the requirements of the Contract Documents. The Contractor further acknowledges that it has become familiar with the local conditions under which the Work is to be performed, and the cost of properly addressing such conditions during performance of the Work is included in the Contract Price set forth herein below.

1.6 Ownership of Contract Documents

1.6.1 The Contract Documents, and each of them, shall remain the property of the Owner. The Contractor shall have the right to keep one record set of the Contract Documents upon completion of the Project; provided, however, that in no event shall Contractor use, or permit to be used, any or all of such Contract Documents on other projects without the Owner's prior written authorization.

ARTICLE II

THE WORK

2.1 Work

2.1.1 The Contractor shall perform all of the Work required, implied or reasonably inferable from, this Contract.

2.1.2 The term "Work" shall mean whatever is done by or required of the Contractor to perform and complete its duties under this Contract, including the following: construction of the whole of the Project; furnishing of any required surety bonds and insurance; and the provision or furnishing of labor, supervision, services, materials, supplies, equipment, fixtures, appliances, facilities, tools, transportation, storage, power, permits and licenses required of the Contractor to perform all work as shown in the Contract Documents.

ARTICLE III

CONTRACT TIME

3.1 Time

3.1.1 The Contractor shall commence the Work upon written notice to commence given by the Owner and shall achieve Final Completion of the Work no later than Twenty-one (21) calendar days from the date of the notice to commence. The number of calendar days from the date on which the Work is permitted to proceed, through the date set forth for Final Completion, shall constitute the "Contract Time."

3.2 Time is of the Essence

3.2.1 All limitations of time set forth in the Contract Documents are of the essence of this Contract.

ARTICLE IV

CONTRACT PRICE

4.1 The Contract Price

4.1.1 The Owner shall pay, and the Contractor shall accept, as full and complete payment for all of the Work required herein, the fixed sum of One Hundred eighty-seven Thousand Nine Hundred Fifty-two Dollars and Thirteen cents (\$187,952.13). The sum set forth in this Paragraph 4.1.1 shall constitute the Contract Price which shall not be modified except by Change Order as provided in this Contract.

ARTICLE V

PAYMENT OF THE CONTRACT PRICE

5.1 Schedule of Values

5.1.1 One half of the Contract Price shall be paid upon execution of this Contract with the balance due within five (5) business days after Final Completion and the Contractor's compliance with Paragraph 5.3.2 below.

5.2 Final Completion

5.2.1 When all of the Work is finally complete and the Contractor is ready for a final inspection, it shall notify the Owner thereof in writing. Thereupon, the Owner will make final inspection of the Work and, if the Work, in the opinion of the Owner, is complete in full accordance with this Contract and this Contract has been fully performed then the Work shall be deemed completed ("Final Completion"). All Warranties and Guarantees required by the Contract shall commence on the date of Final Completion of the Work.

5.3.2 The Contractor shall not be entitled to final payment unless and until it submits to the Owner all documents required by the Contract, including, but not limited to, its affidavit that all payrolls, invoices for materials and equipment, and other liabilities connected with the Work for which the Owner, or the Owner's property might be responsible, have been fully paid or otherwise satisfied; releases and waivers of lien from all Subcontractors of the Contractor and of any and all other parties required by the Owner; consent of Surety, if any, to final payment; all required maintenance and operation manuals; and, all required record and as-built drawings. If any third party fails or refuses to provide a release of claim or waiver of lien as required by the Owner, the Contractor shall furnish a bond satisfactory to the Owner to discharge any such lien or indemnify the Owner from liability. FULL AND COMPLETE COMPLIANCE WITH ALL TERMS AND CONDITIONS OF THIS PARAGRAPH 5.3.2 IS A CONDITION PRECEDENT TO FINAL PAYMENT.

5.3.3 Acceptance of final payment shall constitute a waiver of all claims against the Owner by the Contractor except for those claims previously made in writing against the Owner by the Contractor, pending at the time of final payment, and identified in writing by the Contractor as unsettled at the time of its request for final payment.

5.3.4 The Owner and the Contractor expressly agree that the terms of payment, payment periods, and rates of interest herein shall control to the exclusion of any provisions set forth in the Georgia Prompt Pay Act, O.C.G.A. § 13-11-1 *et seq.*, and the provisions of said Act are herein waived.

ARTICLE VI

THE OWNER

6.1 Right to Stop Work

6.1.1 In the event of an emergency threatening injury to person or property, or if the Contractor fails or refuses to perform the Work in accordance with this Contract, the Owner may order the Contractor to stop the Work, or any described portion thereof, until the cause for stoppage has been corrected, no longer exists, or the Owner orders that Work be resumed. In such event, the Contractor shall immediately obey such order.

6.2 Owner's Right to Perform Work

6.2.1 If the Contractor has installed defective or deficient Work, which is not in conformity with the requirements of the Contract Documents, or if the Contractor fails or refuses to perform any portion of the Work, then the Owner may, without prejudice to any other rights or remedies the Owner may have against the Contractor, proceed to carry out the subject Work. In such a situation, the Contract Price shall be reduced by the cost of performing the subject Work. If such Work is performed by employees of the Owner, the Contract Price reduction shall reflect the reasonable value of such Work based upon the reasonable commercial cost of such Work as if performed by an independent contractor. If the unpaid portion of the Contract Price is insufficient to cover the amount due the Owner, the Contractor shall pay the difference to the Owner within ten (10) days of receipt of demand from the Owner.

ARTICLE VII

THE CONTRACTOR

7.1 The Contractor

7.1.1 The Contractor shall perform the Work strictly in accordance with this Contract.

7.1.2 The Contractor shall supervise and direct the Work using the Contractor's best skill, effort and attention. The Contractor shall be responsible to the Owner for any and all acts or omissions of the Contractor, its employees and others engaged in the Work on behalf of the Contractor.

7.2 Warranties

7.2.1 The Contractor warrants to the Owner that all labor furnished to progress the Work under this Contract will be competent to perform the tasks undertaken, that the product of such labor will yield only first-class results, that materials and equipment furnished will be of good quality and new unless otherwise permitted by this Contract, and that the Work will be of good quality, free from faults and defects and in strict conformance with this Contract. All Work not

conforming to these requirements shall be considered defective. This warranty shall expire three (3) years after the date of Final Completion.

7.2.2 The Contractor warrants to the Owner that all Work shall be free and clear of liens, claims, security interest or other encumbrances in favor of the Contractor or any other person or entity whatsoever.

7.3 Permits, Inspections, Fees and Licenses

7.3.1 The Contractor shall obtain and pay for all permits, inspections, fees and licenses necessary and ordinary for the Work. The Contractor shall comply with all lawful requirements applicable to the Work, and shall give and maintain any notices required by applicable law, ordinance, or regulation pertaining to the Work. The duties and obligations of the Contractor arising hereunder include but are not limited to the full and strict compliance of the Contractor with all rules, regulations and legal mandates of the United States Department of Labor; the United States Immigration and Naturalization Service; the Georgia Department of Labor; the United States Department of Environmental Protection; and the Georgia Environmental Protection Division of the Department of Natural Resources. The Contractor shall furthermore comply with any and all applicable federal, state and local tax laws, unemployment compensation acts, and workers' compensation acts, and upon request of the Owner to the Contractor shall furnish written proof of such compliance. The Contractor shall defend, indemnify and hold the Owner harmless from any and all fines or citations issued against Owner arising out of, or relating to, any violations by the Contractor of any law, rule, regulation or ordinance of any governmental authority. This duty of indemnification specifically includes, but is not limited to, the duty indemnify and hold the Owner harmless from any and all attorneys' fees, court costs, expert witness fees, and other expenses arising out of any such fine or citation or otherwise resulting from any such violation by the Contractor.

7.4 Supervision

7.4.1 The Contractor shall employ and maintain at the Project site only competent supervisory personnel. Any supervisory or other personnel reasonably objectionable to the Owner shall be removed from the Project. Absent written instruction from the Contractor to the contrary, the superintendent shall be deemed the Contractor's authorized representative at the site and shall be authorized to receive and accept any and all communications from the Owner. The Contractor shall attend any job site or other Project meetings as may be requested by the Owner and shall have available in person such management personnel at any such meetings as the Owner may require.

7.5 Cleaning the Site and the Project

7.5.1 The Contractor shall keep the site reasonably clean to the satisfaction of the Owner during performance of the Work. Upon final completion of the Work, the Contractor shall clean the site and the Project and remove all waste, together with all of the Contractor's property therefrom.

7.6 Access to Work

7.6.1 The Owner shall have access to the Work at all times from commencement of the Work through final completion. The Contractor shall take whatever steps necessary to provide access when requested.

7.7 Indemnity

7.7.1 The Contractor shall be responsible from the time of commencement of the Work for all injury or damage of any kind resulting from the Work, to persons or property, including employees and property of the Owner. The Contractor shall exonerate, indemnify and save harmless the Owner from and against all claims or actions, and all expenses incidental to the defense of any such claims, litigation and actions, based upon or arising out of damage or injury (including death) to persons or property caused by or sustained in connection with the performance of this Contract or by conditions created thereby or arising out of or any way connected with the Work performed under this Contract and shall assume and pay for, without cost to the Owner, the defense of any and all such claims, litigation and actions, suffered through any act or omission of the Contractor, or any Subcontractor, or anyone directly or indirectly employed by or under the supervision of any of them. At the option of the Owner, the Contractor expressly agrees to defend against any claims brought or actions filed against the Owner, where such claim or action involves, in whole or in part, the subject of the indemnity contained herein, whether such claims or actions are rightfully or wrongfully brought or filed. In such event, legal counsel provided by the Contractor shall be subject to the Owner's approval.

7.7.2 To the extent the Owner suffers or sustains any fines, penalties or assessments as the result of any act or omission of the Contractor, the Contractor shall indemnify and hold harmless the Owner from same and the Contractor shall reimburse the Owner for any and all legal cost and expense, including attorneys' fees, incurred in connection with any such fines, penalties or assessments.

7.7.3 In claims against any person or entity indemnified under this Paragraph 7.7 by an employee of the Contractor, a Subcontractor, any one directly or indirectly employed by them or anyone for whose acts they may be liable, the indemnification obligation under this Paragraph 7.7 shall not be limited by a limitation on amount or type of damages, compensation or benefits payable by or for the Contractor or a Subcontractor under workers' compensation acts, disability benefit acts or other employee benefit acts.

7.8 Means, Methods, Techniques, Sequences, Procedures and Safety

7.8.1 The Contractor is fully responsible for, and shall have control over, all construction means, methods, techniques, sequences, procedures and safety, and shall coordinate all portions of the work required by the Contract Documents.

7.9 Separate Contracts

7.9.1 The Owner reserves the right to perform work on the premises with its own forces or by the use of other contractors. In such event, the Contractor shall fully cooperate with the Owner and such other contractors and shall coordinate, schedule and manage its work so as not to hinder, delay or otherwise interfere with the separate work of the Owner or other contractors.

7.10 Compliance with Federal and State Immigration Laws

7.10.1 The Contractor shall register and participate in the electronic verification ("E-Verify") of work authorization program operated by the U.S. Department of Homeland Security or any equivalent federal work authorization program operated by the U.S. Department of Homeland Security.

7.10.2 The Contractor shall verify that all new employees of the Contractor are in compliance with the Immigration Reform and Control Act of 1986, as required by state law, as codified at O.C.G.A. § 13-10-91, *et seq.*

7.10.3 The Contractor shall provide the Owner with executed affidavits verifying their compliance with applicable state and federal laws.

7.10.4 The Contractor agrees that, should it employ or contract with any subcontractor(s) in connection with the physical performance of services pursuant to this contract with the Owner, the Contractor will secure from such subcontractor(s) an executed affidavit verifying the subcontractor(s)'s compliance with O.C.G.A. § 13-10-91. The Contractor shall provide the Owner with notice of the identity of any and all subsequent subcontractors hired or contracted by the Contractor or its subcontractors. Such notice shall be provided within five (5) business days of entering into this Agreement or the agreement for hire with any subcontractor, as the case may be. Such notice shall include an affidavit from each subsequent contractor attesting to the subcontractor's name, address, user identification number, and date of authorization to use the federal work authorization program as mandated by O.C.G.A. § 13-10-91(b).

ARTICLE VIII

CLAIMS; VENUE

8.1 Legal Action by the Contractor

8.1.1 As a condition precedent to the filing of any legal action by the Contractor against the Owner arising out of or relating to this Contract, the Contractor shall first provide the Owner thirty (30) days written notice of its intent to file such action. Such notice shall include an identification of the anticipated parties to said action and a description of all anticipated claims and causes of action to be asserted in said action. Any legal action under this Agreement filed by either the Contractor or the Owner shall be filed in the Superior Court of Whitfield County, Georgia and said Court shall be the exclusive venue for any such action. The Contractor

expressly agrees that it shall be subject to the jurisdiction and venue of said Court for any such action and hereby waives all personal jurisdiction defenses.

ARTICLE IX

SUBCONTRACTORS

9.1 Definition

9.1.1 A Subcontractor is an entity which has a direct contract with the Contractor to perform a portion of the Work.

9.2 Award of Subcontracts

9.2.1 Upon execution of the Contract, the Contractor shall furnish the Owner, in writing, the names of persons or entities proposed by the Contractor to act as Subcontractors on the Project. The Owner shall promptly reply to the Contractor, in writing, stating any objections the Owner may have to any of the proposed Subcontractors. The Contractor shall not enter into a Subcontract with a proposed Subcontractor with reference to whom the Owner has made timely objection. The Contractor shall not be required to subcontract with any party to whom the Contractor has objection.

9.2.2 All subcontracts shall afford the Contractor rights against the Subcontractor which correspond to those rights afforded to the Owner against the Contractor herein, including those rights afforded to the Owner by Subparagraph 12.2.1 below.

9.3 Verification of Subcontractor Payments

9.3.1 The Owner may in its discretion verify with any Subcontractor the status of payments received or due from the Contractor. Nothing contained herein shall in any manner limit or restrict any other right of the Owner to communicate with a subcontractor.

ARTICLE X

CHANGES IN THE WORK

10.1 Changes Permitted

10.1.1 Changes in the Work within the general scope of this Contract, consisting of additions, deletions, revisions, or any combination thereof, may be ordered by Change Order without invalidating this Contract.

10.1.2 Changes in the Work shall be performed under applicable provisions of this Contract and the Contractor shall proceed promptly with such changes.

10.2 Change Order Defined

10.2.1 Change Order shall mean a written order to the Contractor executed by the Owner, issued after execution of this Contract, authorizing and directing a change in the Work or an adjustment in the Contract Price or the Contract Time, or any combination thereof. The Contract Price and the Contract Time may be changed only by Change Order.

10.3 Changes in the Contract Price

10.3.1 Any change in the Contract Price resulting from a Change Order shall be determined as follows: (a) by mutual agreement between the Owner and the Contractor as evidenced by (1) the change in the Contract Price being set forth in the Change Order, (2) such change in the Contract Price, together with any conditions or requirements related thereto, being initialed by both parties and (3) the Contractor's execution of the Change Order.

10.4 Effect of Executed Change Order

10.4.1 The execution of a Change Order by the Contractor shall constitute conclusive evidence of the Contractor's agreement to the ordered changes in the Work, this Contract as thus amended, the Contract Price and the Contract Time. The Contractor, by executing the Change Order, waives and forever releases any claim against the Owner for additional time or compensation for matters relating to or arising out of or resulting from the Work included within or affected by the executed Change Order.

10.5 Notice to Surety; Consent

10.5.1 The Contractor shall notify and obtain the consent and approval of the Contractor's surety, with reference to all Change Orders, if such notice, consent, or approval, are required by the Contractor's surety or by law. The Contractor's execution of the Change Order shall constitute the Contractor's warranty to the Owner that the surety has been notified of and consents to, such Change Order and the surety shall be conclusively deemed to have been notified of such Change Order and to have expressly consented thereto.

ARTICLE XI

CORRECTING WORK

11.1 Correcting Work

11.1.1 The Contractor shall immediately proceed to correct Work rejected by the Owner as defective or failing to conform to this Contract. All such rejected Work shall be corrected in sufficient time so as not to delay Final Completion of the Project, and in any event such rejected Work shall be corrected within thirty (30) days after issuance of any written rejection notice by the Owner. The Contractor shall pay all costs and expenses associated with correcting such rejected Work, including any additional testing and inspections.

11.1.2 If within three (3) years after Final Completion of the Work, any of the Work is found to be defective or not in accordance with this Contract, the Contractor shall correct it promptly upon receipt of written notice from the Owner. This obligation shall survive final payment by the Owner and termination of this Contract.

11.1.3 Nothing contained in this Paragraph 11.1 shall establish any period of limitation with respect to other obligations which the Contractor has under this Contract. Establishment of the three year time period in Subparagraph 11.1.2 relates only to the duty of the Contractor to specifically correct the Work.

11.2 Owner May Accept Defective or Nonconforming Work

11.2.1 If the Owner chooses to accept defective or nonconforming Work, the Owner may do so. In such event, the Contract Price shall be reduced by the greater of (a) the reasonable cost of removing and correcting the defective or nonconforming Work, and (b) the difference between the fair market value of the Project as constructed and the fair market value of the Project had it not been constructed in such a manner as to include defective or nonconforming Work. If the remaining portion of the unpaid Contract Price, if any, is insufficient to compensate the Owner for its acceptance of defective or nonconforming Work, the Contractor shall, upon written demand from the Owner, pay the Owner such remaining compensation for accepting defective or nonconforming Work.

ARTICLE XII

CONTRACT TERMINATION

12.2 Termination by the Owner for Convenience and For Cause

12.2.1 For Convenience. The Owner may for any reason whatsoever terminate performance under this Contract by the Contractor for convenience. The Owner shall give written notice of such termination to the Contractor specifying when termination becomes effective.

12.2.2 The Contractor shall incur no further obligations in connection with the Work and the Contractor shall stop Work when such termination becomes effective. The Contractor shall also terminate outstanding orders and subcontracts. The Contractor shall settle the liabilities and claims arising out of the termination of subcontracts and orders. The Owner may direct the Contractor to assign the Contractor's right, title and interest under terminated orders or subcontracts to the Owner or its designee.

12.2.3 The Contractor shall transfer title and deliver to the Owner such completed or partially completed Work and materials, equipment, parts, fixtures, information and Contract rights as the Contractor has.

- 12.2.4 (a) Within sixty (60) days after its termination for convenience, the Contractor shall submit a termination claim to the Owner specifying the amounts due because of the termination for convenience together with costs, pricing or other data required by the Owner. The claim shall be signed by an officer of the Contractor under oath and under penalty of perjury. IF THE CONTRACTOR FAILS TO FILE A COMPLETE AND PROPER TERMINATION CLAIM WITHIN THE TIME REQUIRED HEREIN ANY CLAIM FOR TERMINATION SHALL BE DEEMED WAIVED AND NO FURTHER SUMS SHALL BE DUE THE CONTRACTOR.
- (b) The Owner and the Contractor may agree to the compensation, if any, due to the Contractor hereunder.
- (c) Absent agreement to the amount due to the Contractor, and provided Contractor has submitted its claim in accordance with the requirements set forth hereinabove, the Owner shall pay the Contractor the following amounts:
- (i) Contract prices for labor, materials, equipment and other services accepted under this Contract;
 - (ii) Reasonable costs incurred in preparing to perform and in performing the terminated portion of the Work, and in terminating the Contractor's performance, plus a fair and reasonable allowance for overhead and profit thereon (such profit shall not include anticipated profit or consequential damages); provided, however, that if it appears that the Contractor would have not profited or would have sustained a loss if the entire Contract would have been completed, no profit shall be allowed or included and the amount of compensation shall be reduced to reflect the anticipated rate of loss, if any;
 - (iii) Reasonable costs of settling and paying claims arising out of the termination of subcontracts or orders pursuant to Subparagraph 12.2.4 of this Paragraph. These costs shall not include amounts paid in accordance with other provisions hereof.

The total sum to be paid the Contractor under this Subparagraph 12.2.4 shall not exceed the total Contract Price, as properly adjusted, reduced by the amount of payments otherwise made, and shall in no event include duplication of payment.

12.2.5 For Cause. If the Contractor persistently or repeatedly refuses or fails to prosecute the Work in a timely manner, supply enough properly skilled workers, supervisory personnel or proper equipment or materials, or if it fails to make prompt payment to Subcontractors or for materials or labor, or persistently disregards laws, ordinances, rules, regulations or orders of any public authority having jurisdiction, or otherwise is guilty of a

substantial violation of a material provision of this Contract, then the Owner may by written notice to the Contractor, without prejudice to any other right or remedy, terminate the employment of the Contractor and take possession of the site and of all materials, equipment, tools, construction equipment and machinery thereon owned by the Contractor and may finish the Work by whatever methods it may deem expedient. In such case, the Contractor shall not be entitled to receive any further payment until the Work is finished.

12.2.6 If the unpaid balance of the Contract Price exceeds the cost of finishing the work such excess shall be paid to the Contractor. If such costs exceed the unpaid balance, the Contractor shall pay the difference to the Owner. This obligation for payment shall survive the termination of the Contract.

12.2.7 In the event the employment of the Contractor is terminated by the Owner for cause pursuant to Subparagraph 12.2.5, and it is subsequently determined by a court of competent jurisdiction that such termination was without cause, such termination shall thereupon be deemed a Termination for Convenience under Subparagraph 12.2.1 and the provisions of Subparagraph 12.2.1 shall apply.

ARTICLE XIII

INSURANCE

13.1 Policies and Coverage

13.1.1 The Contractor shall obtain and maintain for the term of the Contract the following policies and coverage:

1. Comprehensive or commercial form general liability insurance - limits of liability:
 - (a) \$2,000,000.00 general aggregate
 - (b) \$1,000,000.00 each occurrence - combined single limit for bodily injury and property damage.
2. Business automobile liability insurance - limits of liability
 - (a) \$1,000,000.00 each accident- combined single limit for bodily injury and property damage to include uninsured and underinsured motorist coverage.
3. Workers' compensation limits as required by law.
4. Course of construction insurance (builder's risk) - 100% of the completed value of the work.

13.2 Waiver of Subrogation

13.2.1 The Owner and Contractor waive all rights against each other and any of their subcontractors, sub-subcontractors, agents and employees for damages caused by fire or other causes of loss to the extent covered by property insurance obtained pursuant to this Article, or other property insurance applicable to the Work, except such rights as they have to proceeds of such insurance held by the Contractor as fiduciary. The Owner or Contractor, as appropriate, shall require of subcontractors, sub-subcontractors, agents and employees of any of them, by appropriate agreements, written where legally required for validity, similar waivers each in favor of other parties enumerated herein. The policy shall provide such waivers of subrogation by endorsement or otherwise. A waiver of subrogation shall be effective as to a person or entity even though that person or entity would otherwise have a duty of indemnification, contractual or otherwise, did not pay the insurance premium directly or indirectly, and whether or not the person or entity had an insurable interest in the property damaged.

13.3 Acceptability of Insurers

13.3.1 Insurers shall be licensed by the State of Georgia to transact insurance and shall hold a current A.M. Best's rating of A:VII; or shall be a carrier otherwise acceptable to the "Owner".

13.4 Subcontractor's Insurance

13.4.1 Contractor shall ensure that its subcontractors are covered by insurance of the type and the amounts required by this Article. Contractor shall not allow any subcontractor to commence work on its subcontract until the insurance has been obtained.

The Contractor's obligations to obtain and maintain all required insurance are not delegable duties under this Contract.

ARTICLE XIV

MISCELLANEOUS

14.1 Special Stipulations

14.1.1 Governing Law. The Contract shall be governed by the law of the State of Georgia without regard to its conflict of laws principles.

14.1.2 Independent Contractor. The Contractor shall perform the services under this Contract as an independent contractor and nothing contained herein shall be construed to be inconsistent with this relationship or status. Nothing in this Contract shall be interpreted or construed to constitute the Contractor, or any of its agents or employees, to be the agent, employee, or representative of Owner.

14.1.3 Conflicts of Interest. The Contractor certifies that to the best of its knowledge no circumstances exist which will cause a conflict of interest in performing the services required by this Contract, that no employee of the Owner, nor any member thereof, nor any public agency or official affected by this Contract, has any pecuniary interest in the business of the Contractor or its subcontractors and that no person associated with the Contractor or its subcontractors has any interest that would conflict in any manner or degree with the performance of this Contract.

14.1.4 Contractor warrants that Contractor and Contractor's subcontractors have not employed or retained any company or person other than a bona fide employee, working solely for Contractor or its subcontractor(s) to solicit or secure this Contract and that the Contractor and the Contractor's subcontractor(s) have not paid or agreed to pay any person, company, corporation, individual, or firm other than a bona fide employee working solely for Contractor or its subcontractor(s) any fee, commission, percentage, gift or other consideration contingent upon or resulting from the award of this Contract. For any breach or violation of this provision, Owner shall have the right to terminate the Contract without liability and, at its discretion, to deduct from the price, or otherwise recover, the full amount of such fee, commission, percentage, gift, payment or consideration.

14.2 Equal Employment Opportunity

14.2.1 During the performance of this Contract, the Contractor agrees as follows: (a) Contractor will not discriminate against any employee or applicant for employment because of race, creed, color, sex or national origin; (2) Contractor will, in all solicitations or advertisements for employees placed by qualified applicants, receive consideration for employment without regard to race, creed, color, sex or national origin; (3) Contractor will cause the foregoing provisions to be inserted in all subcontracts for any work covered by the Contract so that such provision will be binding upon each subcontractor, provided that the foregoing provision shall not apply to contracts or subcontracts for standard commercial supplies of raw materials.

14.3 Successors and Assigns

14.3.1 The Owner and the Contractor bind themselves, their successors, assigns and legal representatives to the other party hereto and to successors, permitted assigns and legal representatives of such other party in respect to covenants, agreements and obligations contained in this Contract. The Contractor shall not assign this Contract without written consent of the Owner.

14.4 Surety Bonds

14.4.1 The Contractor shall furnish separate performance and payment bonds to the Owner. Each bond shall set forth a penal sum in an amount not less than the Contract Price. Each bond furnished by the Contractor shall incorporate by reference the terms of this Contract as fully as though they were set forth verbatim in such bonds. In the event the Contract Price is adjusted by Change Order executed by the Contractor, the penal sum of both the performance

bond and the payment bond shall be deemed increased by like amount. The performance and payment bonds furnished by the Contractor shall be in form suitable to the Owner and shall be executed by a surety, or sureties, reasonably suitable to the Owner. At the delivery of such bonds to the Owner, the Contractor shall also furnish in writing to the Owner the name, address, telephone number, email address, and facsimile number of the person employed by the surety to whom any claims, notices, requests, or other communications from the Owner are to be submitted. If requested by the Owner, the Contractor shall procure and furnish to the Owner the written consent of surety to any proposed Change Order, contract payment or other contemplated action under this Contract. The Contractor shall provide a contact name, phone number and address at signing of this contract.

14.5 Entire Agreement

15.5.1 This Contract constitutes the sole and entire agreement between the parties. No representations either oral or written not incorporated herein shall be binding on the parties. No amendment or modification of this Contract shall be enforceable unless same is in writing duly executed by the parties. In the event any term, condition, clause or provision of this Contract is held or determined to be invalid by any Court of competent jurisdiction, any and all remaining terms, conditions, clauses and provisions of the Contract shall remain in full force and effect.

This Contract is executed under seal on the date set forth herein below.

The City of Dalton, Georgia

Dominica Recreation Products, Inc.

By: _____
Mayor

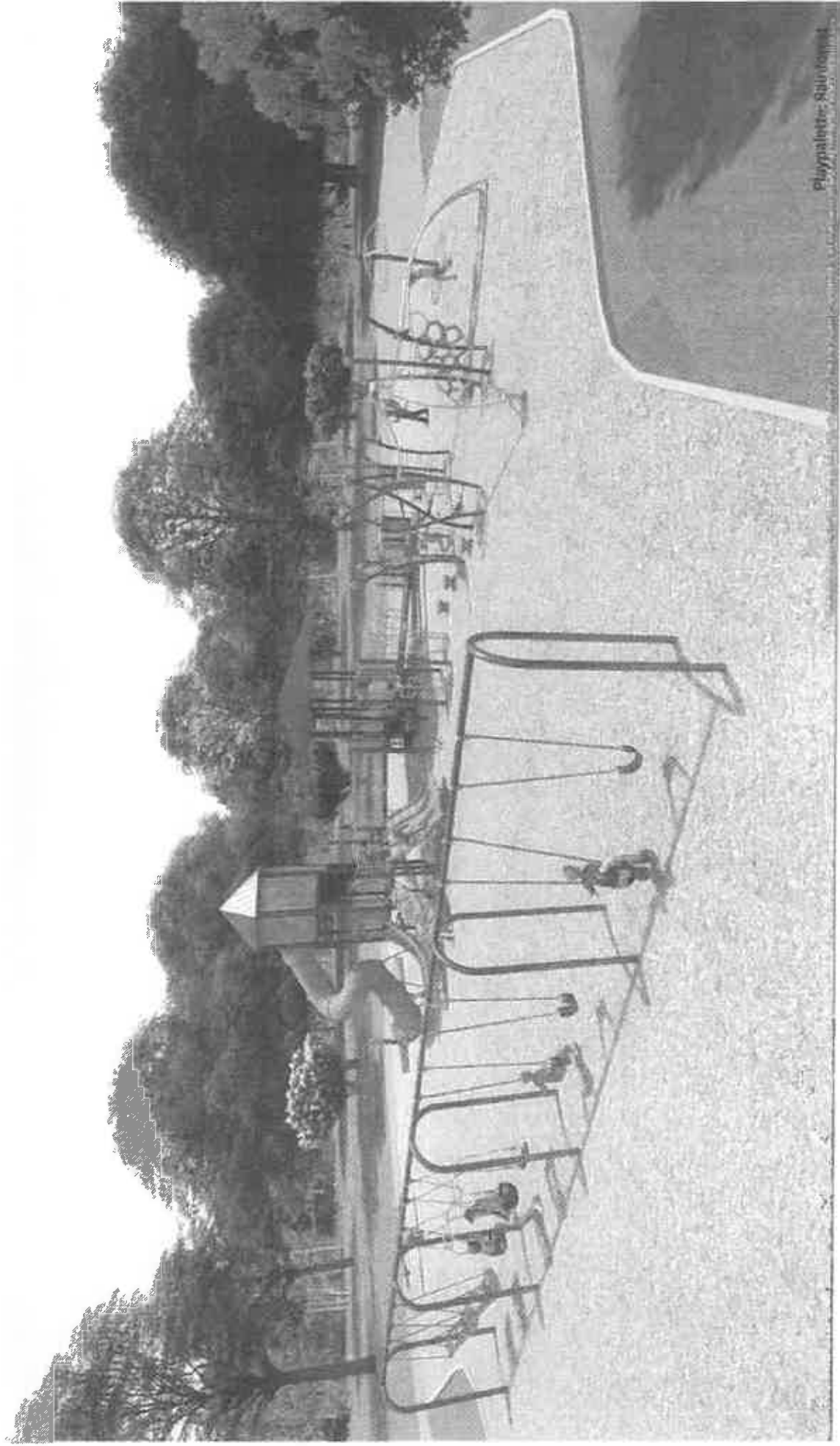
By: _____
President

(Date of Execution)

(Date of Execution)

EXHIBIT “A”

See Attached



Playpalette: Suddeut

Haig Mill Park Revised Option

Dalton, Georgia

Gametime
PLAYERS
www.gametime.com

Playpalette **Dominico**
PLAYERS
www.playdtpa.com

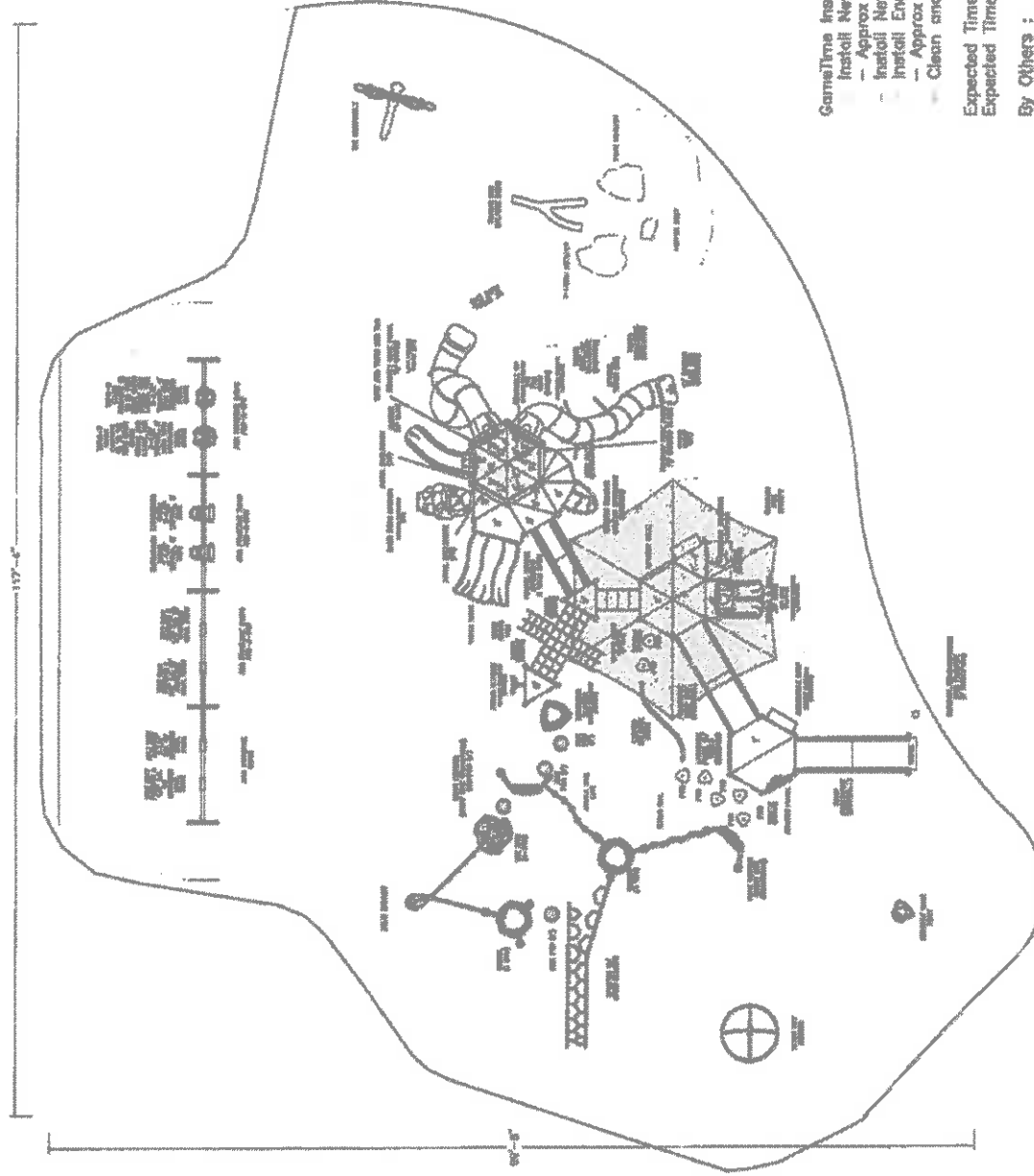
Total Play Events : 51
Child Capacity : 220-240

Slides : 8
Climbers : 13
Play Panels / Events : 7
Swings : 6
Spinners : 3

Play Types -

Auditory
Balancing
Brachiating
Climbing
Climbing/Social
Imaginative
Manipulative
Rocking
Sliding
Spinning
Swinging
Views/Views

ADAAG Compliant
IPEMA Certified
ASTM & CPSC Compliant



GameTime Installer Scope of Work
- Install New Concrete Curb where necessary
- Approx 208 in. ft.
- Install New Playground Equipment
- Install Engineered Wood Fiber
- Approx 9,200 sq. ft.
- Clean and turn-over project to Owner

Expected Time Frame : 60-75 days
Expected Time Frame on site : 2-3 Weeks

By Others :
- Digout of area
- Grading of area
- Sidewalks



481 PlayCore Drive SE
Fort Payne, AL 35967
www.gametimeusa.com

Holly Hill Park
Revised Option
Duluth, Georgia
Domestic Recreation Products

Site Plan
Scale: 1" = 10'-0"
Date: 6-12

Approved Area: 1000 sq. ft.
Scale: 1" = 10'-0"
Date: 6-12

Approved Area: 1000 sq. ft.
Scale: 1" = 10'-0"
Date: 6-12

Approved Area: 1000 sq. ft.
Scale: 1" = 10'-0"
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Scale: 1" = 10'-0"
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Scale: 1" = 10'-0"
Date: 6-12

Approved Area: 1000 sq. ft.
Scale: 1" = 10'-0"
Date: 6-12

Date _____

Vendor Contract • Day on the Lake with Rock Creek Outfitters • September 8, 15, 22, 2018

Please fill out the attached contract on or before September 1, 2018

This Vendor Contract is made between Rock Creek Outfitters and the Lessor (City of Dalton/Dalton Parks and Recreation).

Check-In—THERE WILL BE NO EARLY CHECK-IN needed

Before set-up, Rock Creek staff will see DPRD staff on where to setup for the event. Staff will be located at Lakeside Pavilion or Maintenance shop at the Park.

Saturday, September 8, 15, 22, 2018 beginning at 8am each date

Vendor Space

The Vendor Area will be located around the Launch Ramp area. A guide from Dalton Parks and Recreation will show you to your space.

Exhibit Times

Vendor agrees to keep open during hours on Saturday, September 8, 15, 22, 2018 from 9:00 a.m. to 5:00 p.m.

Vehicles

Vendor may unload/load within the Vendor Area. Vendor may work from the ramp area near his vehicle. On each Saturday, the vendor may keep vehicles within the regular parking area as designated by DPRD.

Space Restrictions

For this event there are no restrictions on space for Rock Creek.

Utilities, Etc.

Electricity is available at the pavilion only. Vendor should be prepared to provide shelter from the sun. Water (faucet hook-up) and ice will NOT be provided. No tables, chairs, nor canopies will be provided.

Sales Tax

No Sales tax. This is a free event to the public.

Security

Minimal security will be provided; however, The City of Dalton, and Dalton Parks and Recreation are not responsible or liable for the loss of or damage to Vendor's property from theft, mysterious disappearance, and damage by fire, water, accident or any other cause.

Indemnification

Vendor agrees to indemnify, defend and protect Lessor against and hold and save Lessor harmless from any and all claims, demands, suits, liability, damages, loss or costs of whatever kind or nature which might result from any of vendors merchandise or from any action or failure to act by Lessor or any of his/her family, officers, agents, employees, or other representatives, including but not limited to claims of damage or loss, harm or injury to the person or property of vendor or any of his/her family, officers, agents, employees, or other representatives, or of third persons.

Vendor accepts total responsibility for his/her equipment and its safety and agrees to conduct his/her activities on the Park premises so as not to endanger any person lawfully thereon. Lessor shall have no responsibility for damages to the vendor caused by fire, robbery, accident or any other destructive cause. Vendor also accepts total responsibility for any and all injuries to Vendor, his/her family, officers, agents, employees, or other representatives while they are on the Park premises and for any injuries to other persons that may occur within the confines of the Park, or which are caused in whole or part by Vendor's products or by vendor, his/her family, officers, agents, employees, or other representatives.

Refunds

This is a free event and refunds will not be requested.

Restrictions

Vendor may not sell firearms (except antiques), alcoholic beverages, or any projectile shooting toy. All merchandise and displays will be subject to Lessor's approval.

Clean-Up

Vendor is responsible for clearing/cleaning his area following the event.

- **Dalton Parks and Recreation will pay Rock Creek Outfitters \$650 per Saturday event for a total of \$1950.00 for kayak, special equipment need and instructional services. Also DPRD will have staff on hand to help coordinate the public in getting them ready for their instructional period.**
- **All Kayak instruction will be conducted by staff of Rock Creek Outfitters.**

A Day on the Lake. Rock Creek Vendor Contract

Name: _____

Business Name
(Optional): _____

Phone: _____

E-mail: _____

Address: _____

City, State, Zip _____

By signing this contract, the Vendor signifies he/she has read and agrees to abide by the terms and conditions included in the contract.

Signature: _____

Date: _____

We believe your full cooperation, along with extra effort on behalf of the City of Dalton, Dalton Parks and Recreation, will save everyone from having unnecessary problems. If you have questions or concerns, contact Dalton Parks and Recreation, Mike Miller or Lisa Hughey at 706-278-5404, email Mike at mmiller@cityofdalton-ga.gov , Lisa at lhughey@cityofDalton-ga.gov by mail P.O. Box 661, Dalton, GA 30722

CANOE and KAYAK LIABILITY RELEASE

1. I acknowledge that use of a canoe or kayak (also referred to as "the Activity") is hazardous and involves a great risk of physical injury or death. I assume all risks associated with the Activity including, but not limited to, varying water conditions, obstacles, other canoes, kayaks and boats, other kayakers and water users, natural and manmade objects, varying weather conditions, as well as varying depth and currents, I acknowledge that the use of a canoe or kayak may involve serious personal injury or even death. I hereby recognize and assume those risks.
2. In consideration of the purchase or demo of a canoe or kayak from Rock Creek Outfitters("the Shop"), I agree to release and hold harmless the Shop and the City of Dalton, Georgia (the "City"), their respective agents, elected officials, directors, officers, owners, contractors, and employees (collectively "the Released Parties") from any and all claims I might have as a result of the Activity, including those claims based on negligence or breach of warranty, Additionally, I agree to indemnify and hold harmless the Released Parties for any and all claims whatsoever brought by a third party for and damage which I may cause or which any other person may cause while engaged in the Activity.
3. I understand and agree that I am responsible for the canoe or kayak and any protective equipment provided and I agree to return provided equipment in the same condition as I received it. I acknowledge that the Shop and the City have advised me that the use of a protective life jacket is mandatory.
4. If I am signing this liability release on behalf of a minor less than 18 years of age ("the child"), I represent that I am the parent and/or legal guardian of the child; I accept responsibility for all the child's medical expenses incurred in connection with the Activity; I agree to indemnify the Released Parties for any and all claims brought by the child; and I agree to indemnify the Released Parties for any and all claims brought by a third party arising in connection with the child.
5. In exchange for the Shop and allowing me to rent or demo the aforementioned equipment, for the City allowing the use of such equipment on its property, I agree that any and all disputes arising from my use of the equipment or my participation in the Activity, including any claims for personal injury and/or death will governed by and construed in accordance with the domestic laws of the State of Georgia without giving effect to the principles of conflicts of law thereof. I further agree that the exclusive jurisdiction for any legal proceeding arising from the Activity shall be the Superior Court of Whitfield County, Georgia and I waive for myself and the child any personal jurisdiction defense regarding the laying of venue for any such suit, action, or proceeding in such court.
6. WEAR AN APPROVED FLOATATION DEVICE, HEAD PROTECTION AND BE ALERT FOR OBSTACLES. I have been offered a Personal Floatation Device at no additional cost and am aware that it is required by law to be kept or worn during activity.
7. I agree to not use a canoe or kayak under the influence of drugs or alcohol.
8. I agree that if any portion of the release is found invalid or unenforceable, the remaining provisions will be fully enforceable to the fullest extent allowed by law.

This agreement is binding on my estate, heirs, administrators and assigns.

I HAVE CAREFULLY READ THE FOREGOING LIABILITY RELEASE, UNDERSTAND ITS CONTENTS AND SIGN IT WITH FULL KNOWLEDGE OF ITS SIGNIFICANCE.

(Purchaser/User)

(Date)

(Parent/Guardian of Purchaser/User if under the age of 18)

(Date)